

_____)
Implementation of Restructuring)
Legislation (Chapter 854, Statutes)
of 1996, AB 1890): Irrigation)
Districts)
_____)

Docket No. 96-IRR-1890

GEORGE PALMER

COMMISSIONERS PRESENT
(Alphabetically Listed)

DAVID A. ROHY

JANANNE SHARPLESS

STAFF PRESENT
(Alphabetically Listed)

ROBERT ELLER

GARY D. FAY

SUSAN GEFTER

JIM HOFFSIS

LINDA KELLY

DICK RATLIFF

THOMAS TANTON

LAURIE TEN HOPE

ALSO PRESENT
(Alphabetically Listed)

MICHAEL BOCCADORO, Agricultural Energy Consumers Association

PETE CONATY, Pete Conaty & Associates

KENDRA DAIJOGO, The Gualco Group, Sacramento

DOUGLAS E. DAVIE, Henwood Energy Services, Inc.

KAREN EDSON, Competesis

HANK GAUS, Sweetwater Authority

ALSO PRESENT, continued
(Alphabetically Listed)

ROBERT W. HONDEVILLE, Turlock Irrigation District

ED JEFFERS, Modesto Irrigation District

DRAKE S. JOHNSON, Southern California Edison

RENEE JOLIVETTE, PG&E

DENNIS M. KEANE, PG&E

THOMAS S. KIMBALL, Modesto Irrigation District

GARITH W. KRAUSE, Merced Irrigation District

JACK KRIEG, Modesto Irrigation District

WILLIAM V. MANHEIM, PG&E

CHRISTOPHER J. MAYER, Modesto Irrigation District

ROBERT B. MOUNT, Fresno Irrigation District

RICHARD R. MRLIK, Power Exchange Corporation

ROBERT MUSSETTER, Enova Energy Management

JEFF NAHIGIAN, JBS Energy (for The Utility Reform Network, TURN)

GUY R. NELSON, The Energy Solutions Company

SHARON M. STOUT, PG&E

DEAN R. TIBBS, Enova Energy Management

JIM TRUDEAU, Power Providers

JEFF VAN HORN, Henwood Energy Services, Inc.

BRUCE WILLIAMS, San Diego Gas & Electric

THOMAS H. WILLOUGHBY, PG&E

RICHARD ZACKY, Zacky Farms

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PROCEEDINGS

COMMISSIONER ROHY: Good morning. Welcome to the Committee Conference regarding Application for Irrigation District Exemption Allocations. I'm Commissioner David Rohy, Presiding Member of the 1996 Electricity Committee. And with me today is Commissioner Jananne Sharpless, Second Member on the Electricity Committee.

This Committee has been chosen to discuss the application and do the preliminary work for the full Commission.

Also present here on the dais is Laurie Ten Hope, to your left, Advisor to Commissioner Sharpless. To my direct right, your left, is Gary Fay, Hearing Officer for these proceedings. To my left are my Advisors, Tom Tanton and Bob Eller.

As you know, under the provisions of 1890, which is now Public Resources Code 374, Section 8, Subsection 1, applications for Irrigation Districts exemptions must be filed no later than January 31st, 1997.

Today's Conference is to give interested parties and members of the public an opportunity to discuss with the Committee their questions and comments regarding the draft applications form, which was sent to all of you on November 25th, 1996. And I'm sure there are additional copies in the foyer if you don't have those.

Remember that we're on a tight schedule here because of these applications in, so we'd like to move this along. And we here at the Commission also understand that. So that is one of the purposes of today's Conference.

The Committee is interested in your comments and how those may affect the exemptions and the applications that you will be putting in in the next month or so.

Before we begin today I'd like to introduce some of the Staff that's here. We have a Public Advisor, Susan Geftter. I don't see her in the room right now. But, Josie, are you representing the Public Advisor's Office?

And we have Linda Kelly over here at this table. From our Staff, Jim Hoffsis and Dick Ratliff, I can almost see over there, that are working at it from our

Staff's point of view.

As we go through today's procedure we'd like to go through item by item in the draft application instructions with one exception, and that's the megawatt definition, which we've had filings on. And we will hold that until last, probably, because it will be the most discussed item, it is our belief. The others we can we think we can get through very quickly.

So with that I'd like to ask Commissioner Sharpless if you have some opening comments?

COMMISSIONER SHARPLESS: No, I don't. Thank you.

COMMISSIONER ROHY: Mr. Fay, would you like to begin?

HEARING OFFICER FAY: Thank you, Commissioner.

What I'd like to do to begin is to take appearances from the parties. If the representatives who plan to be addressing the Committee today could please identify themselves and who it is they are representing, we would appreciate it.

Maybe we could start right next to the staff with PG&E.

MR. MANHEIM: Thank you. Bill Manheim with PG&E. We also have Tom Willoughby here to speak on legislative issues, and Dennis Keane to speak on technical issues such as the megawatt issue.

MR. DAVIE: Doug Davie with Henwood Energy Services, representing the Fresno Irrigation District.

MR. MOUNT: Bob Mount, the General Manager, Fresno Irrigation District.

MR. VAN HORN: Jeff Van Horn, Henwood Energy.

MR. MUSSETTER: Bob Mussetter with Enova Energy Services.

MR. KRAUSE: I'm Garith Krause with the Merced Irrigation District.

COMMISSIONER ROHY: And here's...

MR. MAYER: I'm Chris Mayer with Modesto Irrigation District.

MR. NELSON: I'm Guy Nelson with Energy Solutions, representing Byron Bethany, East Contra Costa and West Stanislaus Irrigation District.

MR. JOHNSON: My name's Drake Johnson. I'm here representing Southern California Edison today.

HEARING OFFICER FAY: Any other persons?

MR. NAHIGIAN: Yes. I'm Jeff Nahigian with JBS Energy. I'm here representing TURN.

MS. EDSON: Karen Edson representing Competesis, working with a number of small irrigation districts.

HEARING OFFICER FAY: Does anybody else wish to identify themselves?

[No response.]

HEARING OFFICER FAY: All right. The format for today that we'd like to follow is to have the Staff introduce the item in the draft application, and then we'll just call for comments on that.

They'll briefly explain anything that isn't obvious on the face of the draft application. And any party that wishes to address that matter may do so.

And once we finish that we'll go on to the next item. And as Commissioner Rohy said, we'll reserve the definition of megawatts until last.

All right. Ms. Kelly.

MS. KELLY: Okay. One thing, I know some of these people here haven't been at all the hearings, but I just wanted to let everybody know that we've come to this point through a rather rapid -- but a process that has solicited and help and input from people.

We started with the En Banc Hearing that was held back on October 16th. And right after that issues were identified. And on November 5th in Merced we all met together again to discuss the issues that have been brought up in an informal workshop.

And after the informal workshop the Commission has put forward this draft application and scheduled this Conference for today. So we've been working together, for some of the people that have called me. And so now we're down to the application. And we'll begin the discussion there.

The first section of the application asks for the obvious information: Applicant's name, address.

And I think the other significant point here is the requirement that an

irrigation district be identified in Attachment 1 -- that is of the application -- as an irrigation district that is eligible for the Competitive Transition Cost Exemption.

I've been working with Edison and PG&E and various irrigation districts to get this list finalized. And if anybody has any questions about that, I'd be glad to hear them now. And if not, assume that we have this list finished.

[No response.]

MS. KELLY: Okay. Is there any other questions about Item No. 1?

Okay. Have none.

HEARING OFFICER FAY: It doesn't look like anybody wants to make a comment on that, so we'll --

MS. KELLY: All right. Then we'll move to Item No. 2. This is the irrigation district boundaries. And basically when a district is formed boundaries are established that define who is entitled to vote in each district. These common boundaries should be used for purposes of this application.

If you provide service to excluded areas within your boundaries and can demonstrate that exemptions could be -- and can demonstrate that you do provide service to them -- I think this was the case with Fresno. They mentioned that they had areas that had been exempted when the boundaries were originally --

MR. MOUNT: Formed.

MS. KELLY: -- created. And at this time, though, you do actually provide water services to those customers?

MR. MOUNT: That's correct.

MS. KELLY: And so in those cases if -- you should provide information that you do provide services to those customers at this time.

And I believe that those would be included as part of the boundaries. Everybody has agreed that those areas would probably be fine.

Is there any questions about boundaries?

MR. MUSSETTER: Yes. What did you say? Did you say that --

COMMISSIONER ROHY: If you'd please go to a microphone in front of you and state your name, please, for the recorder?

MR. MUSSETTER: That this Bob Mussetter with Enova. I'm not

certain what you said, Linda.

In the course of Glenn-Colusa Irrigation District, which is a Sacramento Valley District, it has external boundaries all right. And those are the boundary lines that have to do with the voting. But within that external boundary there are some various situations.

I don't recommend that this Commission trouble itself with that. They're not determinative of a great deal. But they're there. There are some islands that may or may not be served from time to time depending upon what kind of a water year it is and that type of thing.

And so I think the external boundary is a firm line, that if you start delving into islands or other areas within the external boundary that you're just going to get hopelessly confused. There are legal situations. It's in flux. It's continually changing.

Our own LAFCO and the counties that are involved are -- I'm sure it is not clear. There's some -- in other words, some housekeeping that probably needs to be done. But I don't think it's going to affect your situation here. I think you'd just be better off to stay out of that and just say your external boundaries are control.

MS. KELLY: And provide a map that defines where those boundaries are.

MR. MUSSETTER: Yeah, right. The maps, looking at most of the maps you wouldn't even know the difference.

MS. KELLY: Well, I have a map from Modesto. And that map shows the various boundaries. So I think that they are willing to put forward a map like that.

And that would be useful in the application, if the irrigation districts could bring a map as part of their application to define what these boundaries are.

If there are other boundaries they wish to make on it, which was done in the case of Modesto, that's fine. But they should indicate the actual boundaries, the political boundaries, that form the district. I think that would be most useful.

MR. MUSSETTER: Now here's a small version of what I'm talking about. And there are some small rural communities, towns, some incorporated,

some unincorporated, within those boundaries. And there's some farmland that's islands, as they call it, some of which are probably going to be incorporated into the district in the relatively near future, probably in 1997.

MS. KELLY: Well, I think as a help, if you could put a red line around all those things that are yours, that would be the best way I think to help everybody here.

MR. MUSSETTER: Okay.

MS. KELLY: Okay?

MR. MUSSETTER: I don't want to dwell on it any further. Thank you.

MS. TEN HOPE: I just want to be clear. Aren't you talking about the same exterior boundary. I don't think Staff is disagreeing with the --

MS. KELLY: No, I'm not -- I'm not --

MS. TEN HOPE: -- with the idea that the political boundary -- the exterior boundary, are -- or we're asking for the same thing, correct?

MS. KELLY: As long as the excluded areas are within the boundary. Now I think that Bob is talking they might be on the exterior, outside the boundary.

I think that's different than what Staff envisioned. Because the way I read the statute, the Water Code is that when some districts were formed there were areas in the middle that didn't need water. Maybe there wasn't a community there. And so they were excluded as part of the irrigation district's boundaries.

But over the years what's happened is that they have grown. And those particular areas now take water from the irrigation district.

Now within the context of the irrigation district in those excluded areas I think, clearly, it would be reasonable to assume, especially if the district buys them water, that these would be eligible for the exemption.

But when you start going to areas outside, that was something I hadn't envisioned. And --

MR. MUSSETTER: No, I didn't say that, Linda. Excuse me.

MS. KELLY: Oh, okay.

MR. MUSSETTER: No.

MS. KELLY: I was trying to clarify for Laurie.

HEARING OFFICER FAY: So the exterior boundary will take care of all your people? Great.

MR. MAYER: My name is Chris Mayer. I'm with Modesto Irrigation District.

On this particular issue MID would like to recommend that we follow the original language of the statute, which in the case of boundaries would be the boundaries that are political boundaries of the irrigation district. And that's where people have the right to vote for directors.

And even though there's sometimes some confusion about districts providing services outside their boundaries, if pressed, they all know exactly where their boundaries are because they have to each, every two years have an election. They have to go and define by precinct the areas that are in their boundary or not in their boundary.

There were in the Bill two exceptions to that particular boundary that I'd just like to go back over again.

One is the case where -- or, "within boundaries specified in the applicable service territory boundary agreement between electrical corporation and affected irrigation district." That was one of the exemptions that the statute provided.

And then the other one was the situation where in Stanislaus or San Joaquin County, an irrigation district could provide service and receive exemption anywhere within those two counties without respect to its boundary.

And I think those were the three boundary rules that came from the Bill. And we would certainly recommend that the Commission stay as close as possible to those three definitions. Thank you.

COMMISSIONER SHARPLESS: May I ask a question, Commissioner Rohy?

COMMISSIONER ROHY: Please.

COMMISSIONER SHARPLESS: Unless I am not reading the draft guidelines correctly, I think what people have stated at this table is precisely what those guidelines do. Is that correct?

MR. WILLOUGHBY: Commissioner Sharpless, may I interject to try to be helpful?

COMMISSIONER ROHY: Please, for the record, --

MR. WILLOUGHBY: My name is Tom Willoughby with PG&E.

But as you know, I've had a little bit of experience in ancient times with LAFCO. But I think there is a fundamental difference of opinion between what the Staff is saying and what Mr. Mussetter is saying.

I think that the Staff is saying that, "For purposes of determining the boundaries we'll take the external boundaries of the irrigation district and we will deem that all the territory included within those external boundaries is part of the irrigation districts for purposes of this exercise, including those island, those holes, if you will, that are not legally part of the irrigation district boundaries." Even though the irrigation district --

COMMISSIONER SHARPLESS: Yes, I understand that, Mr. Willoughby.

MR. WILLOUGHBY: And I think --

COMMISSIONER SHARPLESS: And I think what Mr. Mayer just stated.

MR. WILLOUGHBY: Exactly. I think --

COMMISSIONER SHARPLESS: Or perhaps I don't understand then what Mr. Mussetter's point is.

MR. WILLOUGHBY: I think he agrees with the Staff, that the external -- that the boundaries for purposes of this exercise will be the external boundaries, and all of the islands within the district will be deemed to be, for purposes of this exercise, "within the district."

COMMISSIONER SHARPLESS: Exactly. Therefore my conclusion is that Mr. Mussetter, Mr. Mayer and the Staff all agree, which is reflected in the guidelines.

MR. WILLOUGHBY: I don't think -- I'll let Chris speak for himself -- but I don't believe that Chris believes. I think Chris agrees that the island should be separate.

MR. MAYER: That's correct. Thank you, Tom.

COMMISSIONER SHARPLESS: The internal islands.

MR. MAYER: Internal islands are areas that are not part of the political boundaries of the irrigation district. And unless they fall under one of the two other exceptions in the statute, our position is that it should be the political boundaries as they existed at the time that was defined in here, and not internal islands, which are not part of the political boundaries of the irrigation district.

COMMISSIONER SHARPLESS: Mr. Mayer, I'm sorry. Are you representing Fresno?

MR. MAYER: I'm representing the Modesto Irrigation District.

COMMISSIONER SHARPLESS: Modesto. I'm sorry.

Because I believe it was Fresno's comments that indicated to prevent an irrigation district from initiating new service within an island for the primary purpose of delivering CTC exemption credits, service agreements for islands should predate January 1st, 1995.

Is that what you're also stating? Or is your position different than that?

MR. MAYER: I think our position is that the legal boundaries of the irrigation district as they existed at the time the Bill was passed should be the areas where CTC exemptions could be applied with the exception of the other two statutory exemptions.

COMMISSIONER SHARPLESS: Okay. So rather than January 1st, 1995, you would have it September of 1996?

MR. MAYER: That's correct. But --

COMMISSIONER SHARPLESS: The time of the enactment of the Bill?

MR. MAYER: But I think a more important position from Modesto's point of view is that the boundary for use of the exemption is the political boundary of the irrigation district and not lands that may encircled, island type lands. And that's, I think, a fairly important point from our perspective. That the Bill, at least our knowledge, was written pretty specifically based on the district boundaries.

COMMISSIONER SHARPLESS: But is that different than what I just stated?

I meant -- I understand what you're saying, that those that currently have the political jurisdiction, that actually vote for the board of directors, be the definition of what a boundary is. That in certain irrigation districts political boundaries, there are internal islands that don't qualify.

And I heard you say that if, in fact, those internal islands qualified as of September 1996, that would fit your definition? Only those after September 1996, if they do not qualify within the political boundaries, would they not be qualified?

Do I understand you?

MR. MAYER: I think so. Let me try to capture I believe what --

COMMISSIONER SHARPLESS: I thought this was amazing one day.

MR. MAYER: If an island was actually part of the irrigation district's political boundary on the reference date, then it wouldn't be an island.

The fact that it's an island is indicative of the fact that it is not part of the political boundary.

COMMISSIONER SHARPLESS: Okay. I apologize. It's a semantical issue here. We're stating the same thing. It's no longer an island if, in fact, it became part of the political boundary by September 1996.

MR. MAYER: That's correct.

COMMISSIONER SHARPLESS: It was the cutoff point that I was trying to clarify with you. Because some people are saying January 1st, 1995. You're being a little bit more generous, you're saying September of 1996.

MR. MAYER: That was the -- when the Bill went through. And unless there's a specific reference to the contrary in the Bill, we're using that as our reference frame.

COMMISSIONER SHARPLESS: Okay.

MR. MOUNT: Bob Mount with the Fresno Irrigation District.

I might point out that the legislation refers to, "boundaries of the affected irrigation district." It doesn't discuss the legal -- necessarily the legal boundaries or the boundaries where directors are elected.

In this case our reference was to a service area boundary and all the lands within our district, within the exterior boundaries of our district or served by

the district. And we were talking about a service area boundary. And that was the basis for the comments that we made in our testimony.

MR. WILLOUGHBY: Mr. Chairman, could I interject there?

As I look around, there are a few of us here in the room that were participants in the negotiations in the Bill. And as the lead negotiator for PG&E on this section I can tell you that at least from our point of view, and I think it was generally accepted, that we were talking about the term "boundaries" to refer to the legal, political boundaries of the district, that is the boundaries from within which voters would be eligible to vote for the district board.

COMMISSIONER ROHY: I'd like to ask the gentleman from Fresno now how that differs? I'd like to understand the difference.

MR. MOUNT: Well, I don't know how to best say this except maybe to explain our situation.

Our service area contracts for these excluded areas are with the cities themselves. The cities represent their constituents who are all members of the voting public. So the voting residents within that area are covered, albeit through a services agreement.

COMMISSIONER ROHY: But to just completely help me understand this, the people in those cities don't vote for irrigation district representatives. They vote for their city officials?

MR. MOUNT: That's correct.

HEARING OFFICER FAY: Mr. Willoughby, just in a general sense, aside from wanting to abide by the terms and intent of the Bill, what is PG&E's reason for wanting to limit it to the political boundaries?

MR. WILLOUGHBY: Well, I think that's what the agreement was, Mr. Fay. That was what the agreement was in August and what was enacted into the final Bill is the political boundaries.

I referred somewhat facetiously in my comments with Commissioner Sharpless to ancient history. But I was involved years ago in local government affairs and the creation of LAFCOs. And I guess I'm sensitive to the question of the terminology of the word "boundaries." And "boundaries" we were using in terms

of the actual political boundary of the district, that is within -- and within that political jurisdiction people vote for the district board.

We certainly did not mean to include islands that were not politically a part of the district. There was no discussion during all of the negotiations that went on during the month of August of including islands.

Now I think the generally accepted view among the negotiators was just what I had tried to state, and what Mr. Mayer has, on behalf of Modesto, has tried to state, is that the term "boundaries" means -- or was intended to mean, at least, the political boundaries of the district without regard to the islands that were not legally part of the district.

HEARING OFFICER FAY: And aside from wanting to be true to your understanding of the language, the way this is typically used, is there other mischief in your mind involved in allowing in holdings to be included --

MR. WILLOUGHBY: I defer to some of my colleagues to respond, you know, to whether there's mischief involved.

MR. MANHEIM: Bill Manheim of PG&E. We're not aware of any. I mean our position on this is just what we believe the statute holds.

COMMISSIONER SHARPLESS: May I ask one question, just to clarify, of the situation that Fresno described?

So while these cities are within excluded islands, you are still serving them through an agreement?

MR. MOUNT: Only a portion of the cities are within an excluded areas. Perhaps -- I'm guessing -- perhaps 10 percent of the City of Fresno is an excluded area. That's the original core area of the City that was -- the City boundaries at the time in 1920.

As the City has expanded and annexed county lands adjacent to the old core area, they have not been excluded from the district. They are part of the district.

In essence, about 90 percent of the City of Fresno is within the irrigation district boundaries and are not in excluded areas.

And for the purposes of our providing service to the Cities of Fresno and the City of Clovis, we have a single contract for all of those areas inside the

district and outside the district. For the most part, for all intents and purposes, those lands are treated the same. We provide the same service to all of those lands.

I guess what -- you know, there has been no reason up until now to annex those lands. They've paid the same service rate. They've received the same service. There really was no reason to treat them differently.

Now I'm hearing that just by virtue of the fact that in 1920 they weren't included in the Irrigation District Act, our ability to provide them with the exemption credits may be threatened, which is -- you know, I find disturbing. And I have a difficult time understanding the logic behind that.

The legislation doesn't discuss political boundaries. It says, "the boundaries of the irrigation district."

MR. MUSSETTER: May I offer a solution?

I don't know if you'll like it or not -- Dean Tibbs and Bee Nolan [phonetic] came up with this, and deserves the credit -- why wouldn't the Commission take the Staff's -- and I guess it's mine too -- the external boundary idea, including islands or whatever's in there, as the default. And then if an irrigation district in its applications chooses to differ from that, you can deal with them on a case-by-case basis in their application process. And then we can move on.

I'll just say that while you're mulling that one over, all of these affairs are not as neat and tidy as you might imagine, when you get out into the country.

I've been serving some time as chairman of the LAFCO in Colusa County and audits. The whole time I was on the City Council in Williams, why, I also was a Williams delegate to the county for LAFCO.

And I saw what proceedings and what goes on. And I know in particular with this district that there have been, in recent years, ballots sent to citizens who reside in the city limits, so that there's some overlap. And there are also assessments, bills sent to those people, apparently a large number of them, not a trivial amount.

And there was some effort made to resolve that. But I don't believe it's been properly done. So if you dug into it you'd find out there could be some people who live in the district and also live in the city and vote for both. So --

COMMISSIONER SHARPLESS: If I can just follow up -- thank you, Mr. Mussetter.

But I do want to follow up with Fresno just so as one member of the Committee I have a total picture what it is we're dealing with here.

I think I understand all the arguments, but I do want to understand what Fresno is saying here.

They think there ought to be a cutoff date if the Committee were to allow these islands within the districts to be eligible, but they do predate January 1st, 1995. That really wouldn't help you.

MR. MOUNT: I really don't have any problem with it, with the date. And I only specified that so that the Commission appreciated that my motives were -- I wouldn't call them exactly pure, but I wasn't attempting to change anything, you know, by going out and entering into service agreements in order to include this areas.

These lands have been served since the -- well, I think, since 1976, I believe, is when we entered into the agreements with the City of Fresno, and '72 for the City of Clovis, but there are long-term agreements --

COMMISSIONER SHARPLESS: Well, it does seem as though you do anticipate that if there wasn't some closure on this issue that your last sentence says, "This definition protects one irrigation district from another without restricting the ability of an irrigation district to distribute the benefits of 1890."

That gets to Mr. Fay's mischief issue.

MR. MOUNT: The mischief I had intended, or -- not intended, but had considered was that irrigation districts without this exterior boundary issue would be competing against one another.

And, in fact, the --

COMMISSIONER SHARPLESS: But they can, can't they --

MR. MOUNT: Yes, they can --

COMMISSIONER SHARPLESS: -- in Stanislaus and San Joaquin?

MR. MOUNT: Yes, they can. And there's no --

COMMISSIONER SHARPLESS: So how about it?

MR. MOUNT: Yes. And I don't have any problem with it. I'm stumbling across the footsteps of Modesto as we speak. So they've been in our area and have been courting electrical power customers.

But I'm not talking about an objection to the competition. I'm talking about the allocation of the exemption credits.

COMMISSIONER SHARPLESS: As Mr. Willoughby said, this boundary issue -- I think it was Mr. Mayer who brought it up -- the fact that in Stanislaus and San Joaquin, the boundary issue is sort of a different issue, because it's open game in those two counties. Is that not correct?

Yes.

And of the two areas that seemed to be concerned about the boundary issue, they're both in those counties. Are they not?

MR. WILLOUGHBY: Fresno's not. And I think Mr. Mussetter's, the people he represents are certainly not in those counties.

COMMISSIONER SHARPLESS: Okay. All right.

COMMISSIONER ROHY: Just for clarification, again, and -- Mr. Mussetter, you may know the districts, in fact, you do know them better than I. They're even confusing from the little I know. So --

MR. MUSSETTER: Oh, right.

COMMISSIONER ROHY: -- I'm looking for verifications here.

I'd like to ask Mr. Willoughby, who has somewhat of a different view from the Fresno viewpoint, how serious this issue is. Is this a major issue on, first, the included area versus the external boundaries?

MR. WILLOUGHBY: I think from PG&E's perspective it is not a first-rank priority issue. It's an issue of competition among irrigation districts. And from our point of view it's simply a question of trying to carry out what we felt was the understanding that was arrived at throughout the month of August.

Unfortunately Fresno was not party -- and no Fresno representative was party -- to any of those discussions. And Modesto was a party, I will add, as was Turlock. But Fresno was not.

COMMISSIONER ROHY: Yes, sir.

MR. BOCCADORO: Michael Boccadoro on behalf of the Ag Energy Consumer's Association.

And I was the other principal who drafted this section, I think, with Tom. In fact, we drafted the section on behalf of the ACEA and then worked out the differences with PG&E.

And I'm troubled by this whole discussion of political boundaries versus exterior boundaries because there was never any discussion along those lines at all. Tom is incorrect in that.

And the discussion was clearly the exterior boundary issue was to prevent the sort of situation where an irrigation district could go outside of its exterior boundaries, such as the Praxair [phonetic] Agreement that Modesto had, where they were going across counties and picking off a customer.

It was never intended to get down to the level of political boundary detail that Tom is talking about here. That was not discussed in the negotiations between the parties that arrived at the agreement on this section. It was not discussed by the Legislature.

And I don't think it's appropriate to bring it up the way Tom has brought it up here. It troubles me greatly.

And it gets to a deeper position of PG&E in that they're just trying to limit the effectiveness of what was achieved in the legislation. And that bothers me a great deal.

COMMISSIONER SHARPLESS: Excuse me. I'm sorry. Could you identify yourself again. I didn't --

MR. BOCCADORO: Michael Boccadoro with the Ag Energy Consumer's Association.

COMMISSIONER SHARPLESS: Michael Boccadoro.

MR. BOCCADORO: Um-hum. And the other real quick point I wanted to make is I was in discussion with Fresno toward the latter ends of the completion of Assembly Bill 1890. And so their issues, while they were not directly involved in discussions, they were being discussed through both my membership in ACEA and they were being represented.

COMMISSIONER SHARPLESS: So it would be your point of view that boundaries doesn't limit any irrigation district from attempting to market in any other district and apply the CTC exemption; that would be your contention?

MR. BOCCADORO: No, I'm not sure that that would be my contention.

My contention is is that the discussion in the Legislature and the discussion that when we reached agreement with PG&E on these limitations was that it would be the exterior boundaries. Within those boundaries a district like Fresno would be free to serve customers located within their exterior boundaries.

What they would be prohibited from doing with the CTC exemption is going beyond those boundaries.

COMMISSIONER SHARPLESS: Oh, so you're making an argument to allow for islands to be included?

MR. BOCCADORO: Absolutely, absolutely.

And I'm disturbed by the discussion by PG&E separating between political versus exterior boundaries. It really gets to just another way of limiting the potential service territory of the irrigation districts. That was not discussed by the Legislature.

MR. TANTON: It wasn't discussed one way or the other; is that your point?

MR. BOCCADORO: Not as it relates to political boundaries, --

MR. TRUDEAU: Okay. So --

MR. BOCCADORO: -- this island issue.

MR. TRUDEAU: Is it fair to say that you had one understanding and perhaps Tom had another understanding and that the issue of distinction was never discussed?

MR. BOCCADORO: I think that's safe. The issue that was discussed was going outside of your boundaries --

MR. TANTON: No, I understand --

MR. BOCCADORO: -- and serving a customer -- that the issue revolved around --

MR. TANTON: The issue of the islands was never discussed one way

or the other?

MR. BOCCADORO: It was never discussed in the legislative environment one way or the other.

The point I'm trying to make is the issue that was being resolved by the boundary language in the legislation was the issue of them being able to go outside of their district boundaries and serve customers, which they statutorily have the authority to do today anywhere in the state of California.

COMMISSIONER SHARPLESS: Excuse me. We've had two individuals come up and testify before the Committee -- well, one in Conant, Fresno, which was talking about a cutoff date of January 1st, 1995, and the other gentleman who was talking about September 1st, 1996, or whatever the assigned date was -- I'm sorry I don't remember.

Now that would suggest that there are two parties in this room who would like some cutoff date for establishing the eligibility of islands.

Now are you in a different position than that? Are you saying there should never be a cutoff date?

And if, in fact, people are suggesting a cutoff date, what does that tell the Committee? Does that tell the Committee that even though there was not a specific discussion in the Legislature of the island issue that for some reason we ought to exclude islands if they don't meet a certain cutoff date? And on what basis do we do that?

I'm asking the gentleman at the podium.

MR. BOCCADORO: Well, I -- and the cutoff date's a little different issue, I think. The cutoff date that I believe, and correct me if I'm wrong, relates to the issue of when they were providing service to some of these islands. And I think this just another point that would lend argument that they should be included.

In Fresno's case they are currently providing service to these islands --

COMMISSIONER SHARPLESS: But why have a cutoff date at all?

MR. MOUNT: There really was no intent other than to make sure that we didn't take advantage of a situation by -- you know, we were talking -- in the legislation there's an annexation issue, that the boundaries had to be as they were

on January 1, 1995, I believe -- or the 20th of December. There was a point beyond which a district couldn't go out and annex additional lands so that they could serve CTC credits to them.

And I threw that in as a whim. Really, I didn't feel that it was necessary to do that, from out standpoint. And I don't have any problem withdrawing that particular comment.

It really wasn't a significant comment. All the rest were, though.

COMMISSIONER SHARPLESS: What about Mr. Mayer?

MR. MOUNT: Well, I disagree with Mr. Mayer's position.

COMMISSIONER SHARPLESS: Okay. I'd like to hear from Mr. Mayer, though. What is --

COMMISSIONER ROHY: And after that Mr. Willoughby, I believe.

COMMISSIONER SHARPLESS: Yes. What is Mr. Mayer's reason for the cutoff date?

MR. MAYER: The cutoff date was just in light of what constituted the irrigation district as of the date the Bill was passed. If a piece of land was in the irrigation district from the legal, political boundaries standpoint on that date, then I'm sure it's entitled to receive exemption from CTC under this competitive process.

But if it wasn't as of that date, at least participating in the same process with a lot of other people, trying to provide information that was used in the drafting of the Bill, to me the boundary of an irrigation district is unambiguous, completely. It is a specific legal defined term.

And to me that's what I thought I was getting when I participated in this process, that it was the boundary of the district. And that other than the specific exceptions in the Bill, there would be no enlarging of those boundaries.

Because basically what's in front of us now is a competitive process among the irrigation districts. These exemptions are worth many millions of dollars. And so, to that extent, that the terminology needs to be precise because there's a lot of money at stake.

COMMISSIONER ROHY: Mr. Willoughby.

MR. WILLOUGHBY: I'm sorry that Mr. Boccadoro parenthetically is

disappointed in me. I mean I am not disappointed at him; I want the record to reflect that.

But the comment -- I want to go to Mr. Tanton's point, because I don't think Mr. Boccadoro can have it both ways. I don't think he can represent that the question of islands was not discussed during the passage of the legislation. And I want to agree with him on that point. The question of islands I don't think was discussed.

But I don't think then he can say that obviously that you have to opt for the side of the issue that says you're going to take the exterior boundaries and deem all the islands to be within the exterior boundaries.

If you say that the question of islands wasn't discussed -- and I agree that it was not discussed -- then I think you have to say, "Well, okay, what's the Commission's or this Committee's next move since it was not discussed?"

In my mind boundaries -- and maybe it's because of my background, but boundaries means political boundaries. And Mr. Boccadoro may have had certainly a different understanding of that.

But I also think Mr. Mayer is correct, that the real issue here is the issue of competition among the irrigation districts.

But the only point I wanted to make is I think Mr. Tanton was correct, Mr. Boccadoro can't have it both ways. He can't say the issue wasn't discussed and then say, "Clearly, this is what was intended."

MR. TANTON: No, no. Excuse me. That was not my point. I was simply trying to decide whether, A, it was discussed; and, B, whether in fact reasonable people in a discussion where it was not raised may have come with and left with a different understanding of what the word "boundaries" meant.

MR. WILLOUGHBY: And that's entirely possible. I guess I would only add then, and make it my point, if you want, that final point, that you can't have it both ways. You can't then say that because it wasn't discussed then clearly this was what the intent was.

MR. BOCCADORO: And I just want to correct --

MR. TANTON: Correct. So it's fair to say that the legislative intent is

somewhat clouded; is that fair?

MR. WILLOUGHBY: I think that's a fair -- from my point of view that's a fair statement.

MR. TANTON: Okay. All right.

HEARING OFFICER FAY: Excuse me, Mr. Boccadoro, just before you make your comment.

I'd like to ask the Staff if they are aware at this time of administrative problems in taking one approach versus the other?

It seems that the legal definition is quite precise. If islands could be brought in within the external boundary, and they're not within a precise legal definition at this time, does that create some administrative problems in identifying the location of exempt customers?

MS. KELLY: No, I don't think so.

And when Staff reviewed these I went down and read the statute. And I think in the case of Fresno, when I looked at that, Fresno has served these customers for many years.

They have always had the right to change their political boundaries. And I just assumed that they never did. They defined these boundaries in a procedure very early on. These communities weren't included. Then these communities then were added.

They actually provide them irrigation services. They function in a way that they do for the rest of their customers, but they never got around to changing the political boundaries, which they always could if they wanted to, as I understand it the statute.

MR. MOUNT: That's correct.

MS. KELLY: So this was the basis for our recommendation, is that although the language in the statute was clearly unclear in many cases and the legislative intent is very hard to understand in some places. But Staff felt that there was no mischief intended in this particular proposal, these customers they have served as water customers.

And as long as they served customers as water customers and didn't do

this as of late, Staff felt that this was reasonable. And there wouldn't be any administrative problem with handling this.

COMMISSIONER ROHY: I'd like to comment first that I believe either Commissioner Sharpless nor I were part of those discussions, is that correct, in the Legislature?

And even if we had been, our task is to follow the statute. Your understanding that you bring to it is very important to us, but when the day is done we will have to make a call on the statute.

And is that a fair position?

Now I will take two more comments. I see two hands.

And unless there's more information that's new after that, I think we should move on. Yes, sir.

MR. DAVIE: Doug Davie, Henwood Energy, representing Fresno.

One of the issues that comes up, and I think that we mention competition among irrigation districts for allocation, but the issue goes beyond that. There's an equity or fairness in terms of who Fresno Irrigation District can provide the benefits to, whether or not the interpretation is going to basically split the communities of Fresno and the communities of Clovis and say, "No, you're on this -- your meter is on this side of that line inside the boundaries, therefore you can't receive these electrical restructuring benefits."

So there's a clear equity issue of how you treat, for example, an entire City of Fresno, whether you carve out a piece that is served by Fresno in one case and is not served under this other interpretation in the other.

And so I think there's a real equity issue, and it's who Fresno can bring the exemption benefits to. It's not just the competition for the exemption credits, but who they can bring the benefits to.

And splitting the communities, I think, would be a real bad decision in terms of creating the haves and have-nots within a community and within an irrigation district's area, within their exterior boundaries.

COMMISSIONER ROHY: Yes, sir.

MR. MANHEIM: Thank you. Bill Manheim for PG&E. I'd just like

to offer a couple perhaps closing thoughts on this.

There seems to be general agreement that the deal that was struck was that irrigation districts would be able to apply CTCs to the areas that they have the right to serve electrical customers. Some irrigation districts are in the electric business, some are not.

But I think there is general agreement that no one intended an irrigation district should be able to apply these exemptions outside their boundary.

And then the question just becomes then: Well, what's the boundary? Is it the exterior line or is it the area currently being served by them?

So when we're talking about this islanding issue, I think it's important that we recognize that Fresno's islanding issue is different than an islanding issue in general.

Fresno's issue is different because they serve these communities, allegedly -- I mean we don't know, I don't know the specific facts -- but they serve these communities perhaps through a wholesale arrangement or some other arrangement prior to December 20th, 1995, but never actually amended their political boundaries.

And I think the fact that service was happening is a significant distinguishing factor. We need to make sure that the islanding concept, though, does -- not be extended to any other type of situation where there was no service being provided.

Well, right, that's the issue, is serving electrically or water.

And it seems to someone who didn't participate and has only read the statute and heard the comments of people here today, that the test for boundary was the area served by the irrigation district for either electrical or water purposes.

Then there's the issue of a cutoff date. And some dates have been suggested. I'd just like to suggest that under Section 369 of the Act, it talks about -- you can't avoid the CTC by forming a new utility or annexing an existing area after December 20th, 1995.

So to the extent the Commission decided to grandfather areas served by the irrigation district but not technically part of their political boundary, that I think an

appropriate cutoff date would be December 20th, 1995.

COMMISSIONER ROHY: Thank you for your comments.

I believe Mr. Mayer had some brief closing comments on this issue.

MR. MAYER: I'll try to keep it real brief.

To the extent that the Commission deals with the issue that provided service or wholesale water sales relates to the boundary, it could get very complicated.

During the last major drought the Modesto Irrigation District sold a large quantity of wholesale water to the Hetch-Hetchy Water and Power Systems which served the County of San Francisco, San Mateo and portions of Santa Clara County.

So I'm not here to argue that our exemption should apply in San Francisco to give -- to avoid, but --

COMMISSIONER ROHY: You made Mr. Willoughby very excited there for a moment.

[Laughter.]

MR. MAYER: But the concept of providing service then somehow binding you to the people -- whatever the Commission decides, it needs to be very carefully defined. Because such arrangements as the one I just described, if people chose to follow that line of logic, could have this exemption going all over the state.

COMMISSIONER ROHY: Thank you.

MR. MAYER: Thank you.

COMMISSIONER ROHY: I think I will take the prerogative of the Chair and move on. But I appreciate all the comments and the discussion for this. It is helpful to the Committee.

MS. KELLY: Okay. We're going to skip -- are we going on?

HEARING OFFICER FAY: Well, are we moving to distribution facilities --

MS. KELLY: Yes, right.

HEARING OFFICER FAY: Isn't No. 4 the one we're going to take last?

MS. KELLY: Yes. We're going to skip No. 4 and we're going to --

HEARING OFFICER FAY: But we're on No. 3 now?

MS. KELLY: Right.

I hope we're going to -- this one should be pretty simple.

HEARING OFFICER FAY: Like the last one.

MS. KELLY: All exempted load must be served by irrigation district distribution systems. It can be owned or leased by the district.

Is there any problem with that?

[No response.]

MS. KELLY: Good. Then we'll move to the next. The next one is total load of the irrigation districts. This requirement --

HEARING OFFICER FAY: That's No. 5 on the application.

MS. KELLY: No. 5.

This requirement in the application was meant for irrigation districts that are already serving load. And it would be important that the district provide information for all the years, 1995 through 2001, on their customers, and how they're serving them now and how they plan to serve them in the future.

Any questions on that?

[No response.]

MS. KELLY: We'll be glad to, later on, at any time if anybody needs any help with these applications, working with people. Okay.

MR. MOUNT: Linda?

MS. KELLY: Yes.

MR. MOUNT: Can I excuse you for just a second. Item No. 3 on distribution facilities?

MS. KELLY: Right.

COMMISSIONER ROHY: I knew that was too easy.

MR. MOUNT: Yeah. I did have just a simple comment.

The Fresno Irrigation District does not have distribution facilities right now. And we will be constructing those facilities based on the allocations made to those customers that want irrigation district service. And I am concerned that the time of the application is a little too early for providing some of the requirements to

demonstrate distribution facility capability.

In other words, we're not going to have all of the information necessary to respond to that application. And I would say that we would have some leave to bring that information to you or loosen up the requirements a little bit on the application process.

MS. KELLY: Well, I think clearly some of the requirements will not be met on the day of the application.

MR. MOUNT: Okay.

MS. KELLY: But the description of how you're going to meet them, when you're going to meet them, a timeframe, any kind of information that would indicate their viability would be useful.

MR. MOUNT: Okay.

MS. KELLY: Okay. Now we're back to No. 6.

We've completed with 5, that's load for all those years of existing -- the existing system.

HEARING OFFICER FAY: Just one last check.

Any other comments on item No. 3 of the application?

[No response.]

HEARING OFFICER FAY: Okay.

MS. KELLY: One thing just in reference to this comment, that with regard to these requirements, everybody realizes that some of the information you will provide will be current and will be applicable to '97. But wherever the information is applicable in the future, clearly, again, just information that shows the viability of realizing those plans on the date of the exemption is important.

Resources, No. 6.

The resources that are available and plan to meet district load. This is very important. We're looking for all kinds of detail that would just assure viability of these -- of the load to meet these resources, this new load. It could be contracts, it could be proposals to build generation.

This also, I think, when you talk about viability, the ability to not only secure customers but keep customers over the period of the exemption is also very

important. So reliability -- and addressing those issues, I think, are extremely important as well, because we are looking over a five-year period.

If you're intending to use the power exchange, again that type of information in as much detail as possible.

Does anybody have any questions about any of this? Yes, Bob.

MR. MUSSETTER: Well, I guess this is as good a point as any just to point out, anybody who's been prowling around the electricity markets of late will tell you that the market is soft and there's a lot of generation offered from all directions. And without going into the pricing of it, there's five-year firm power offered, well, at 2 cents at the Oregon border. And the term of this exemption is five years.

So I don't see why this Commission has to be particularly concerned at this time about the supply. It's fair to ask some questions and get some idea. But customers really are going to be faced with the issue of, if they elect to leave their previous provider and all that, devise for themselves a strategy of acquisition.

And some of them may elect to contract for a hundred percent of it or some of them may elect to contract for 50 percent and take their changes on the spot market for the other half, which is equivalent to not trying to play the market, in other words, not try to outsmart the market, anyway.

So I'm just saying that I guess I disagree a little bit with the Staff's position that this information is extremely important.

I think that in the present market it's not very important, that the buyers have plenty of power offered to them for the term that this exemption is going to be available.

And you might want to know a little bit about -- what is more important is to how they're going to get it to their customers rather than where it's going to originate.

MS. KELLY: Well, I think the intent was that we understand that some people will just use the spot market.

But I think it's important that some of the participants in this process are new to this process and new to electrical generation. And it would -- if you're

going to look to viability, it's important to see that these people have done their homework. That maybe if they don't sign a contract for any particular power at a particular price, they have gone out and are aware of what the prices are because if they're estimating what they're going to serve these customers at what cost, they have to have some idea of what the price of the power is going to be.

And in some cases if somebody opts for a short-term firm contract, I don't think that is a negative. It could be a positive rather than somebody who's going out on the spot market all the time looking for a different price.

If they can get a good price on a firm contract for -- at 2 cents, like you were saying, that might indicate that the price of the power that they're going to serve to their new customers is going to be stable rather than fluctuating, which would then -- again, if the price of the power fluctuates, then these customers may decide to go somewhere else.

So if there was any indication that there was some firm power that a district had gotten and was planning to provide, that might be useful as well, again towards viability.

These are all fine indications of how viability might --

COMMISSIONER SHARPLESS: If I could, Commissioner Rohy. I think what Commissioner -- excuse me -- Mr. Mussetter is getting --

MR. MUSSETTER: May I respond to that?

COMMISSIONER SHARPLESS: -- is getting to is really how the Commission and the Committee goes about judging viability of the plans. So then we are directed to the legislation, since that's what we go by.

The legislation specifically says that, "Individual irrigation districts requesting allocation shall submit detailed plans that show the load that it serves or will serve and for which it intends to utilize the allocation within the timeframe requested."

It goes on to say that, "It should include specific information on the district's organization for electric distribution, contracts, financing, engineering plans for capital facilities as well as detailed information about the loads to be served," et cetera, et cetera, et cetera.

So I think that the Staff's proposed language in the draft guidelines fairly closely parallels what the legislation is requiring. And if there's another way to get to the issue of viability, this Commission would be opened to hearing it.

COMMISSIONER ROHY: And at the same time, to follow up on the next paragraph that Commissioner Sharpless was reading from, that, "This Commission shall have the discretion to allocate the load covered by this section in the manner that best assures its usage within the allocation period."

And I think that's what Staff's trying to do is make sure that what we allocate is there -- will be used.

Yes, sir.

MR. DAVIE: Doug Davie.

The one comment, I think it goes back to the same thing we said about the distribution systems, and it's a presumption I'm making, is that you're not looking for irrigation districts to go out and issue RFPs immediately and get the contracts and everything in place in anticipation.

It's basically laying the foundation of how we will go about doing it, just as we're not going to start building transmission lines and distribution lines on spec that we're going to get the allocation. We have to have it first.

So it's the plans of how we would go about doing it. And we would not be penalized, for example, for not speculating and entering into contracts or issuing construction programs prior to receiving the allocation.

The plan is not that -- not having it at hand because you're not going to get the permits and everything in place by January 31st.

COMMISSIONER SHARPLESS: I think there's a limited number of megawatts. There's a floor and a ceiling. And then anything that's over will depend on the kind of plans we get. The more detailed the plans the more compelling the plans, the more viable the plans, the better the case. The Committee will be able to make better decisions.

And those plans are more likely to get their allocation levels than those that are, shall we say, purely speculative. So why and it behooves the districts to provide the Committee with as much information on how these megawatts are

going to be used and their viability.

COMMISSIONER ROHY: We will have competitive applications and to the degree that we have more comfort that the allocations will be used and, in fact, provide service to the people on the irrigation districts, those will rise to the top.

This does not exclude, though, any types of transactions that you wish to get into.

We're trying not to tell you how to do it, but to the extent that you can convince us that you have a business plan that makes sense, you will rise in the ranking.

Do we agree, Commissioner?

COMMISSIONER SHARPLESS: We'll we're trying to tell them a little bit on how to do it. We're trying to set the framework. But, yes, I agree with you, Commissioner.

MR. TANTON: I think perhaps one clarification might help here.

Districts may intend to purchase electricity outside the power exchange through some form of direct contract. And while these instructions don't indicate a description of that, that probably should be included as well. Okay. So it's not limited to just participants in the exchange.

COMMISSIONER ROHY: Any other comments on Question 6?

Mr. Mayer.

MR. MAYER: Chris Mayer from Modesto Irrigation District.

The exemption period, I believe, covers five years starting in 1997. And I guess one thing I would like to suggest is in situations where customers have already been connected and are receiving service now, that that be given some priority and consideration, at least in a selfish way.

We've already connected a number of customers that are in this situation where the power is flowing. And we'll differentiate that from any prospective customers in our application.

But since the exemption is usable as of 1-1-97, which is actually even going to be before the applications are due, that certainly is a consideration for us

because we have some people that are already in this situation.

COMMISSIONER ROHY: Thank you for that comment.

HEARING OFFICER FAY: Any further comments on Item No. 6 of the application?

[No response.]

HEARING OFFICER FAY: Okay.

MS. KELLY: Then I guess we're moving on back to 4.

HEARING OFFICER FAY: It's now for the fun part.

MS. KELLY: I think what I'd like to do is -- first of all, has everybody got a copy of this example? If you haven't, I assume there are additional ones out at the desk. I tried to hand them out to everybody.

I thought just as a jump-off point that what we might do is just take an example of specific customers and look how -- if those customers -- if you wanted an exemption for those particular customers, what the exemption would have to be under the various proposals.

I think most of us understand this, but I'm not sure that everybody does. And this will give me a chance to make sure that I've got it right. Because this is just our interpretation, Staff's interpretation of these various proposals.

What I want to do is start first with a demand meter. This is also a demand metered customer. It is assumed that the allocation will go to the customer. And so that's a simplifying assumption there.

So this is a demand metered agricultural customer. I realize that some agricultural customers have much higher load factors. But let's just say that we're looking at what is perceived as the agricultural load customer that has a load factor of about 20 percent, -- the numbers are just roughly around there -- a 10-megawatt load in each year. And they only operate six months a year from May through October.

Under the PG&E proposal, which is the maximum annual peak demand, clearly in this case the customer in order to be exempted from the CTC would need a 10-megawatt exemption.

Going to Staff's proposal, Staff has suggested that using just one year

might be problematic, and has suggested instead that you would use an average of three years. And so Staff's would be the same as PG&E.

COMMISSIONER SHARPLESS: Linda? Excuse me. Linda?

MS. KELLY: Yes.

COMMISSIONER SHARPLESS: I was following your words, and I'm wondering if what you meant to say is not that in order to receive the CTC exemption they needed a 10 megawatt peak demand, rather that under this scenario they would get 10 megawatts of peak demand -- or a 10-megawatt CTC exemption?

MS. KELLY: This customer in order to continue to operate as they are would need a 10-megawatt exemption from their full CTC.

If this customer wanted to become a customer of somebody else, and this was what his load was, he would need -- in order to operate CTC-free, one customer, he would need a 10-megawatt exemption under the PG&E proposal.

COMMISSIONER SHARPLESS: As opposed to getting a 10-megawatt exemption?

MS. KELLY: Right. He would need.

COMMISSIONER SHARPLESS: Okay. Thank you.

MS. KELLY: If he wanted to operate a hundred percent just as this. Is that clear to everybody? Any questions?

Okay. So then under Staff's proposal, again, it would be -- if it was just for one year it would be the 10, but for Staff, you would take the maximum peak load for three years, average it, and you would come out with the amount of the exemption.

So in this case it could be a little higher or a little lower, but let's just say for three years it was all 10 megawatts. And Staff's would be 10 megawatts.

Then as we understand the recent Modesto proposal, which there are copies outside, Modesto would do an average of the peak in each month.

And so in that case if this particular customer was used, he didn't operate in January, February, March, April, and so it would be zero. And then the 10 megawatts that run through October. And then he didn't operate again in November and December.

And so you divide the 6 months at 10. And these are the peak megawatts for each month. And you get 60 over 12, or this person would need in order -- this customer, in order to operate a hundred percent CTC exempt, this particular customer would need a five-megawatt exemption.

MS. TEN HOPE: Linda? I'm still confused with the "get" versus "need," because my understanding was the way the Staff proposal and I think the other applicants is that once you would calculate a customer's allocation was, and then that customer would receive a full CTC exemption, that there isn't in the Staff proposal a partial CTC exemption. So --

MS. KELLY: There is.

MS. TEN HOPE: So it's not that a customer would need a certain exemption to be fully exempted, you identified the customer, --

MS. KELLY: Right.

MS. TEN HOPE: -- you calculate what their demand is, --

MS. KELLY: Right.

MS. TEN HOPE: -- and that demand becomes the allocation for CTC exemption?

MS. KELLY: Right. Okay.

MS. TEN HOPE: Okay. I just wanted to make sure we weren't confused about partial CTC exemptions.

COMMISSIONER ROHY: This is a one-time calculation; is that correct?

MS. KELLY: One-time calculation.

COMMISSIONER ROHY: Linda, could you use the microphone a little bit, please, for the people in the audience?

MS. KELLY: All right. Now we go back to Merced.

The Merced proposal is based upon the total annual megawatts consumed by this customer over the whole year.

So you would basically just calculate what is the total of the -- in this case the six months they operate. Six times 2920. And then you would divide that by the total hours in the year, which is 8,760. And this customer exemption would be two megawatts.

Now then we get down to Fresno, and I have talked to Doug Davie about this quite a lot in trying to do this example, and I couldn't quite fit in the Fresno proposal. And I think Doug can explain that proposal.

But basically the examples above assume that the individual customer would be awarded the exemption. And under the Fresno proposal that would not be the case. That would not necessarily be the assumption.

The assumption is that the exemption would be given to the irrigation district and then Fresno would be free to give those exemptions to whatever customers in whatever amount they wanted.

So in this case the example here just doesn't really -- it doesn't lend itself to the Fresno approach.

So maybe if I just go through them and then just let you explain --

MR. MOUNT: That's fine.

MS. KELLY: -- would be the best way to do --

MR. WILLOUGHBY: Could I just make one comment?

MS. KELLY: Sure.

MR. WILLOUGHBY: Laurie mentioned a partial exemption. I think it's accurate to note at this point that the Fresno proposal would allow partial exemptions.

MS. KELLY: Okay. The next example here is an industrial customer. I assumed a load of around 50 percent, roughly. And industrial customers, we know, operate throughout the year, some months maybe a little less than others.

And so I just propose that this customer would operate at five megawatts in four months, January, February, March and December. And in the rest of the months he would operate at 10 megawatts. And the energy consumed there is based upon a 50-percent capacity factor.

Going down to PG&E first, this customer, the exemption would be 10 megawatts. That was the highest peak demand for the past 12 months. Staff has done the same thing, expect for there would be an average of three years.

For Modesto, you would look at the peak monthly demand from January through December. And put all those peaks together and divide by 12. And

in this case it gives you 100 over 12 or 8.3 megawatts.

So PG&E's and Staff would require 10, Modesto would require an 8.3 exemption and Merced, this proposal again, is the total annual megawatts consumed by the hours in the year.

And in this case that would be four times 2190 and eight times 4380 divided by the total number of the year, hours in the year, and you would get five megawatts.

So you can see -- I'm going to have a summary table so that we can see how each of these various customers -- or what the difference in the proposals would mean with regard to exemptions.

Our last customer here is a residential customer with a little up-and-down graph year. That's the way he wants to go -- I think see "residential customers." Just to go quickly to this, PG&E again, the highest peak month for -- this commercial customer is July 10th.

And so under the PG&E proposal, this customer, it would be a 10-megawatt exemption. Staff again the same because it's up for an average of three years.

For Modesto you would look at the different months and average them all together and get an annual monthly peak, divided by 12. And in this case it would be an eight megawatt exemption.

For Merced this customer, a low load -- this load factor is about 30, 33 percent. And in this case adding together the energy associated with the residential customer instead, as an example with PG&E, a 10-megawatt exemption, this customer would need only a 3.2-megawatt exemption, which is again the total megawatts consumed in the year.

And then Fresno again has a different proposal.

So I think that when we look at the summary table we can see that each of these proposals results in a very different outcome for the various irrigation districts.

For PG&E in all three cases, remember in every one of them there was a 10-megawatt peak, annual peak, and so as a result of PG&E's proposal it would

require each of these different customers regardless of load factor to have a 10-megawatt exemption. And Staff would agree that the same thing is true again just averaged over the three years.

The Modesto proposal which is the average of annual peaks by month, the agricultural customer would need a five-megawatt exemption for -- it would be five for them. Eight point three for the industrial and eight for the residential customer, as compared to the 10 from PG&E.

And, finally, the Merced proposal would be a total annual megawatt hours, it's 2 megawatts for Merced -- or for the agricultural customer, 5 for the industrial and 3.2 for the residential.

So you can see that each of these proposals has very different -- results in a very different amount of allocation for each of these different customers.

So I thought this would be a good way to start this discussion on how to calculate the megawatt and what's the best way to do it.

And by just reviewing this and letting everybody know what our general understanding is of these proposals. And Doug will let us know what the Fresno proposal is.

So how would you like to start with other people first? Or your choice.

HEARING OFFICER FAY: Yes. It's that or would you like Fresno to add -- does Staff have any more to add to this?

MS. KELLY: No. I think our proposal is pretty clear. And I just wanted to provide general information for everybody.

If anybody disagrees with these examples, please make that clear to the Committee, if I've misinterpreted your proposal. And, please, any questions. Just use this as a reference point.

HEARING OFFICER FAY: I think the Committee would like to start with Fresno.

MR. MUSSETTER: I would like to talk to the Fresno concept first, because I'm more of a --

COMMISSIONER ROHY: Please use a microphone, Bob.

MR. MUSSETTER: Pardon? Yeah.

I think we do need to start from the legislation language as much as possible in all these matters. I concur with you in that.

And in 374(a)(1)(C), the language appears in the middle of paragraph C, "Show the load that it serves or will serve." This is detailed plans and so on.

The exemption is allocated among the irrigation district, respective irrigation districts, in some of the other language.

Now the reason I emphasize that is that agricultural loads occur in the spring, the summer, the fall and the winter, contrary to what you may think.

The first thing that you do in agricultural is you raise the crop. This is where you get the water pumping loads both for lifting water itself and then for increasing the pressure, for an example, in sprinkler lines.

But after you grow the crop, then you have to dry it or put it in some kind of condition so that it can be held for some period of time.

And then there's usually a third phase, such as rice milling or almond shelling or cotton ginning or making pelletized feeds, or any number of other -- the more advanced stages of food preservation that are done after harvest.

So that you'll find a rice mill's biggest time of operations commences usually in November and runs steadily 24 hours a day -- it's a nice level load for an electric purveyor -- for most of the months of the year, perhaps terminating some time in the early summer, or depending on the amount of -- the kind of year it is and how the orders come and a lot of variables.

So from the very fine *PG&E Resource Book*, which I hope PG&E doesn't object if I refer to, -- oh, that doesn't work. I guess we can't do this because --

MS. KELLY: It isn't on, yeah.

MR. MUSSETTER: Well, it's in the material I gave you and all it is -- and, Tom, it's this thing here.

My point is -- quickly, is that agricultural demand is a rather flat level demand if you aggregate it and take a look at it year round.

And the first point to be made here is that generation of -- serves one customer and one kind of load in the spring and another kind customer in a different load in the summer. And another, third, customer in a different load in

the fall and yet another one in the winter.

This isn't perfect, but this is the general idea.

So that if you have an aggregation of such customers as you will within an irrigation district, these districts are rather large entities, Fresno is 200,000 acres, and so on, you're going to get some kind of a level load.

Now this is why I have -- just keep coming back to the Fresno-Henwood model, I call it. And I'm trying to depict it in a graphical form in this graph that's inside, which I would appreciate it if you would turn to.

It says page 1 on the bottom and it goes across the page like this.

And Doug Davie can correct errors that may be this. I've shown this to him before, though, and he generally said it reflects the proposal.

Now on the left column you'll see metered megawatts. So let's presume we're dealing with somebody in an irrigation district that gets 40 exempt megawatts.

And going out to the right would be time. So you would have kilowatt hours in that big rectangle from 40 below, and below.

And then you have your peak demand showing there in the cross-hatched area. And of course that's going to be -- that's going to incur the Competition Transition Charge. There's no escaping that. That's going to have to -- that load amount above the exempt amount is going to have to pay it.

And of course this depiction here is complicated enough already without trying to show on here the stairstepping of the five-year phasing and all that. But you can imagine that in your mind's eye, if you will please.

So rather than have 40 megawatts times 8760 hours, whatever that is, that would be the potential cup that the irrigation district might be able to fill, as it were. That would be the maximum exemption.

But they're probably going to lose some of that on the shoulders here depending on, again, the way the cookie crumbles. In other words, that just depends on how big this irrigation district is in relation to the exemption and how their loads coincide and a number of other factors, I assume.

In the case of Modesto, they get a 40-watt exemption and they have a 450-watt peak load, summer peak. Their baseload will probably absorb the entire 40.

So they're going to get the full -- they'll be able to use it all.

In the case of a smaller district, like Glenn-Colusa that's new going into this business, and is, I'm sure, won't be able to use all of it.

But it does no harm or violation to the time-honor- -- well, your electric understanding of peak demand on generation. Because what we're talking about here is some aggregation of peaks at different times of the year within this irrigation district.

Now I grant you, I'm not going to go into the question of the accounting. PG&E is quite right in saying that at some point in time all of this exemption has to be accounted for to them, no question.

And maybe it even it has to be -- and they have to collect the money, there's no question about that.

I don't think anybody's trying to argue those points. It's a question -- there's a sensitivity area, though, on identifying customers in advance, obviously.

Those are -- that's the main point for now, I think. I just wanted to set the stage. Doug Davie will say it in different words, but that's what we're talking about.

Is there a question from the -- right now?

[No response.]

MR. MUSSETTER: Okay. Thank you very much.

HEARING OFFICER FAY: Yes. Please identify yourself.

MR. NELSON: Guy Nelson representing three irrigation districts in Stanislaus County.

I would like to say that the three districts agree, in essence, what Mr. Mussetter has said. And that we'd like to support the idea of aggregating where there is contiguous boundaries of irrigation districts to meet that eight megawatts of minimum demand.

Because the smaller irrigation districts find it onerous to try to come together, at least individually, with their individual loads to meet that eight megawatts of minimum demand.

Thank you.

HEARING OFFICER FAY: And did you have any other specific comments about Item 4?

MR. NELSON: No, sir.

HEARING OFFICER FAY: Okay. Thank you.

MS. KELLY: Gary, could I just insert one thing here?

HEARING OFFICER FAY: Sure.

MS. KELLY: Because it wasn't part of the actual application we didn't go over two points that Mr. Nelson has now brought up.

And in our instructions on the application we do indicate that the statute provides the applications are to be from individual irrigation districts implicitly disallowing the aggregation of loads from multiple districts to meet minimum megawatt requirements.

So that's part of the instructions. And I did want to mention that is in our instructions and is contrary to what Mr. Nelson is proposing.

MR. MUSSETTER: May I comment on that one point I didn't mention before?

I would be in support of that if there's any way that you can see your way clear to doing that with the word "contiguous."

If you don't -- and I realize there's a problem there with the language in the Bill, if you don't do it, then the small irrigation districts I think are largely going to be left out of this.

HEARING OFFICER FAY: What we'd like to do is ask each commenter that wants to address No. 4 to cover all their concerns within that part of the application. And we'll try to work through everybody so we can get everybody's questions and concerns on the record.

Then if time allows we can go back. Because we want to be sure that the give and take does not end up excluding somebody.

So if you could collect your thoughts and try to deliver the whole load to us, regarding that --

COMMISSIONER ROHY: It has to be at least eight megawatts.

HEARING OFFICER FAY: And we'll do it that way.

Does Fresno want to go ahead?

Yeah. Just quickly now, to help supplement what I think Linda presented earlier in the table from Fresno Irrigation District's standpoint.

And I think one of the key things is that the way that table is presented -- and I think the issue is we're talking about the load, the amount of exemption credit that would be necessary to give to the irrigation district to cover 100 percent of their customer load, is different than if they get less than that amount that's necessary.

With that, if you go in and look at the table that Linda has prepared, for Fresno Irrigation District, if that customer -- and this is true for any one of the tables -- if that customer portrayed were the only customer that Fresno Irrigation District had, they would need the same amount of megawatts of exemption credit as comes down from PG&E or the Staff's approach.

On the first one, under the Fresno approach, we would have -- and that's our only customer -- we would have to have a 10-megawatt allocation to cover that customer load 100 percent. Okay?

The partial allocation issue that's raised is true with all the methods. Once the irrigation districts get their allocations, my guess is that because of the competition the irrigation districts are going to be serving load well in excess of their allocation, so whether the need is determined based on PG&E's, the Staff's approach or Fresno's or the others, they're probably going to get less allocation than they need to serve their customers.

So then comes the second question, and you need to treat it separately. Because with PG&E's or the Staff's, Modesto's, Merced's, Fresno's, with any of them, you can have partial allocations.

If the PG&E method said the irrigation district needed 80 and they only got 40, the district has to make a decision. And it's the district's decision in terms of how they give the exemption credits to the customers. The customers have to get them. And ultimately the customers will be identified.

But we're talking now about how much credit they need. And the three different methods give different answers in terms of the amount of credits the irrigation district needs to cover 100 percent of their expected customers that need it.

I think the two issues and the issue that Fresno has is it's looking down the road that there is, in fact, going to be a need for the Energy Commission to give allocations less than the districts asked for. There's not going to be enough to go around.

And so the second question really plays into the usage question in terms of how districts can make best use of that and demonstrate to the Energy Commission that they are, in fact, making best use of it.

But the table, it's important in the table. If any one of those customers were the only irrigation district customer, the numbers would be the same.

In the summary table you would not be able to just add those up because you would have to be looking at the coincident peak demand to determine what the required amount is. It would definitely be -- in all likelihood be less than the numbers that PG&E or Staff come up with. It would probably be a little bit higher than what Merced has come up with. How it would compare to Modesto? You know, there are some specifics that play into that.

But the important point is we need to -- I think we need to separate the partial from what they need for a 100-percent coverage.

MR. TANTON: I have a question here.

If we look at the summary table that Linda's put up, and we assume three customers, one of each type, -- well, let's make it even simpler, just two types: The ag customer and the industrial customer.

In the PG&E example I would see those two customers adding to an allocation of 20 megawatts; is that correct?

MS. KELLY: Yes.

MR. TANTON: And in the Fresno case, if the industrial customer just serendipitously were to operate the six other months of the year than the ag customer that she's shown, in that case it would add to a total of 10 megawatts; is that correct?

That they each use 10 megawatts but they were six different months of the year?

MR. DAVIE: If they were noncoincident, that would be correct.

MR. TANTON: If they were completely noncoincident.

MR. DAVIE: That's correct.

MR. TANTON: They would add the 10, whereas in PG&E's example they would add to 20; is that correct?

MR. DAVIE: That's correct.

MR. TANTON: Okay.

MR. WILLOUGHBY: May I ask -- on Doug's second point, though, does that mean that Fresno would actually allocate CTC exemptions in that amount to each of those customers?

COMMISSIONER ROHY: Doug, would you like to respond to that?

MR. DAVIE: Well, as you go forward, yes -- you know, I think how they -- yeah.

The customer and the irrigation district is going to be responsible -- I mean there's a fundamental issue here that all of the information necessary for the CTC calculations is going to be the irrigation district's information. They will own the meters as compared to a direct access customer where presumably PG&E will still have the meter and all these CTC calculations can be done directly with meters that PG&E reads and controls.

So now we're talking about, in this whole issue of irrigation districts, a third party, the irrigation district, owning the meters and controlling the data between the customer that owes the CTC liability and PG&E, who's the recipient of it.

So the irrigation -- and part of Fresno's approach is to try and simplify, to say, "Lookit, we have the information. And to the extent that in any hour there's a CTC liability being incurred, we will have the information that's going to be verifiable and we will be deciding. Yes, these are the customers that are exempt."

MR. WILLOUGHBY: I think I heard Mr. Davie answer my question by saying if they get the 10-megawatts allocation they can spread that not just between the two customers that Mr. Tanton talked about, but between maybe 10 or 20 customers if they want.

COMMISSIONER ROHY: Is that a correct interpretation?

MR. DAVIE: Our partial allocation says that if we have not one 10-megawatt customers but 10 10-megawatt customers and we only have a 10-megawatt allocation, we aren't required to give -- and there's nothing in the legislation to say that we have to give a 100 percent exemption to one customer and nothing to the others.

The exemption amount would be given -- the district gives it to the customer. They spread it. And then PG&E would have the information.

And each of those customers has a one-megawatt exemption, then PG&E would know any time the customer is using or the amount of consumption in excess of one megawatt would incur the CTC liability, the money is collected from that customer and ends up with PG&E either directly by the customer sending the check to PG&E. Fresno's willing to facilitate that to collect the money and pay it to PG&E because they have the data and can expedite that a little bit, just to simplify.

But there's nothing in the legislation that says a customer has to have 100 percent coverage. And, in fact, if given the competition for CTCs, I think it's quite reasonable to expect that a district is not going to be fully covered.

And so the question is: Does the district have to chose haves and have-nots or do they allocate it some different method? And the legislation simply says maximize the usage, you know, best utilize those exemption credits.

And if spreading it will do that, then a district should, in fact, be proposing that kind of a method.

MR. WILLOUGHBY: Well, --

COMMISSIONER ROHY: Mr. Davie, can I ask a question?

May I infer from what you said that your customer data then would be totally available to PG&E?

MR. DAVIE: If that's what is necessary from an accounting standpoint -- it's going to be auditable in checking. And PG&E has to be in a position to be able to confirm the customer's exemption was X, their load was Y and the CTC liability is what results from those numbers. And it has to be verifiable.

MR. WILLOUGHBY: I don't think --

COMMISSIONER ROHY: Excuse me. Just a second.

MR. DAVIE: So, yes, it will be available. It has to be.

COMMISSIONER ROHY: Because there is no provision for the Energy Commission to take further action and be any policing force once we've allocated these megawatts.

So I can't all make some inferences that you would have to work closely with PG&E on data exchange. And I'm not sure yet that we've established data ownership and rates of data exchange of that type.

And do you have any comments on that, if you were exchanging customer's data to PG&E? Is there a legal basis for that?

MR. DAVIE: Well, I think there's going to have to be some confidentiality protection, just as today PG&E will not share its customer load data. I think there's going to have to be some protection.

And if a customer were to tell -- I mean to tell Fresno, no, you can share the data, then the administration of CTCs goes back to historical data.

And if you look at what PG&E has filed at the Public Utilities Commission for administration, they say they plan to use actually metering data if it's available. But if it's not available, then they'll use historical data. The same thing will be true. You know, Fresno, cannot give a customer's data to another party, if that party says don't give it out.

Our belief is that the customers are going to want to track this properly and be fair. But it's no different than PG&E customer data.

The customer of PG&E says give the data to Fresno ID, presumably PG&E would be willing to do it. But without the customer approval, no. I think that caveat fits into it in that the district has to protect the customer's specific information or ensure that that does not become public in a way that would be adverse to the customer.

HEARING OFFICER FAY: And so for the purposes of PG&E's required reporting to the PUC, what would you give them if you had a confidential customer. Would you just identify the class that the customer was in in terms of the firewall?

MR. DAVIE: Well, for purposes of actual CTC collection I think you could go to a class level because the CTCs, I believe, are going to come out and be

class CTCs, so that five different residential customers don't have five different CTCs. The CTC would be the same for all five of them.

So they could be aggregated by class to protect the data.

We're willing to, as long as the customer allows us, to share that detailed information with PG&E so it can be verifiable right down to the specific customer. But the confidentiality will have to be protected from the public forum.

COMMISSIONER SHARPLESS: Can I ask a question here?

I'd kind of like to just go back before we get into the specifics here and look at the different proposals and try to determine -- it seems to me that in the case at least from the first three, PG&E, Staff and Modesto, we're looking at a formulation based on capacity or load factors? I meant demand -- demand, which seems to track with what the legislation, the statute requires.

When you look at -- I'm not sure about Fresno -- when you -- I meant Merced -- when you look at Fresno, it seems as though Fresno's formulation is based on energy use; is that correct?

MR. DAVIE: No. It would be based on a demand amount that would assure that in no hour is the demand -- that any demand or any amount of power being served by the district in excess of their demand limit would incur a CTC liability.

It is very much a demand related -- and I guess if you looked at it with the allocation Fresno would need to fully cover 100 percent of its load is effectively a coincident peak demand, is what they would need to cover to 100 percent of their load.

Whereas PG&E's approach to cover 100 percent of the load would be a noncoincident peak demand. So as I say our approach is demand -- is inherently demand related --

COMMISSIONER SHARPLESS: But in your letter you specifically said that your approach was based on realtime usage. And to me that means energy use. And I'm trying to figure out whether or not that that construction fits the requirements of the statute.

MR. DAVIE: The reason it's realtime -- it very clearly meets exactly the

way CTC collection is being implemented by PG&E at the PUC Board.

PG&E is proposing to collect CTCs based on actual hourly consumption. If a customer -- presumably in PG&E's approach, if a customer had a one-megawatt exemption and their load in an hour is two megawatts, they have in that hour one megawatt of CTC liability.

Or in the way they've constructed the arrangement, if it's a 10-megawatt customer that in 1998 has 12 megawatts of load, presumably there's a 2-megawatt CTC liability that PG&E would be collecting.

Because what they filed at the PUC says they will look at actual loads -- not historic, actual -- so that a customer's increased or reduced usage does not result in overpaying or underpaying CTCs.

So it very much fits in exactly with what PG&E is proposing at the Public Utilities Commission for actual implementation.

COMMISSIONER SHARPLESS: Well, perhaps the accounting of the customers in terms of getting CTC -- but I'm back to the calculation, the definition, of megawatt as it is currently constructed in the statute in trying to determine which of these proposals most -- I mean can fit within that statutory construction and which don't fit in that statutory construction, Mr. Davie.

And you're telling me that by basing your megawatt eligibility on energy use, that it really isn't energy use, it's load.

MR. MOUNT: No. Isn't it really capacity, what we're talking about? PG&E is talking about capacity which is at the maximum capacity in a year or their peak capacity and their reservation of capacity and their transmission grid is the 10 megawatts. And that's why we're talking about the peak use.

And I think we're talking about the same thing. I don't think any of the others really discuss the capacity on the transmission grid except for FID's proposal.

And we're not really talking about energy use, we're talking about the load, the megawatt load. When we exceed that megawatt load then we go into a situation where we have to start paying the CTCs, or our customers have to start paying the CTCs.

In that regard I think --

COMMISSIONER SHARPLESS: But your proposal is the only one that allows for partial allocation to customers.

MR. MOUNT: That's correct. That's correct.

Well, I'm not sure that that's case -- I think they all do. I think they all do.

MR. MOUNT: Sure.

MR. MUSSETTER: They're going to have to.

MR. MOUNT: I don't think there's any way that you can split it. Because I don't think there's any customer that we're going to have that we're going to be able to group them to match the allocations, nor do we want to. I think we want to spread those allocations out to the greatest number of people.

I think it would be the same sort of issue where you've got haves and have-nots. How is the irrigation district board of directors going to decide who gets the allocation and who doesn't?

Is it going to be based on friendship or what color pants you've got or what color shirt you've got on that day?

We've got to treat our customers equitably, too.

COMMISSIONER SHARPLESS: There's not the first-come, first-serve principle?

MR. MOUNT: No.

COMMISSIONER SHARPLESS: No first-come, first-serve principle?

MR. WILLOUGHBY: Well, could I make a comment here?

COMMISSIONER ROHY: Mr. Willoughby, please. You've been patient.

COMMISSIONER SHARPLESS: Okay.

MR. WILLOUGHBY: There's certainly a difference between --

COMMISSIONER SHARPLESS: I'm glad to hear there's absolutely no difference in these proposals. That's a great relief for me.

[Laughter.]

MR. WILLOUGHBY: I think there's a difference between what I would call a truing-up of energy actually used in order to make sure that everything comes

out correctly and the difference with respect to the partial CTC exemption as was referred to.

To go back to Mr. Tanton's point, if Fresno got a 10-megawatt CTC allocation for exemptions and then had 10 customers, each of whom had a 10-megawatt load, my understanding is if Fresno wants to say, "Okay. Each of you 10 customers gets 1 megawatt of CTC exemption. So you'll have to still pay CTCs on the nine megawatts, however you calculate those megawatts, but you'll still have to pay CTCs on the nine megawatts, but the one you will not."

And I think that that -- you know, that's certainly one way to approach this issue.

The bottom line on this is that I don't think that that's what certainly we had contemplated. Because what this enables Fresno to do is to go to 10 customers and say, "Please, we'll give you a one-megawatt CTC exemption, each one of you, so you can switch from PG&E to us."

We had contemplated that the 10-megawatt allocation would be allocated to specific customers in the totality of their load, again leaving aside the necessity for truing this up in terms of actual consumption.

But I think that's the real threshold question: Are you going to allow the CTC exemptions to be used basically as marketing tools to get the maximum number of customers to switch from one provider to another --

COMMISSIONER SHARPLESS: Well, I'm going to ask Fresno an equity question on their own proposal.

MR. MOUNT: All right.

COMMISSIONER SHARPLESS: You need 50 percent ag pumping to qualify. How, if you're going to treat one set of classes one direction, are you going to get the fifty percent ag pumping if you allow for partial allocation of this exemption?

Are you going to treat ag pumping differently?

Are you going to find three really big pumpers and qualify the 50 percent and then leave the rest of the exemptions to the rest of your customers?

MR. MOUNT: That's a tough issue because you've got to classes of ag

pumpers. You've got the large commercial that process foods and have a fairly steady load and then you've got the water pumpers, which vary dramatically.

We saw a 20-percent load factor number. But in our district that could go from zero-percent load factor because there some times that people take surface water all year round and then it may be 10 percent. I think 20 percent is sort of wishful answer.

I don't know how we're going to do that. I haven't sat down to figure out rate structures yet. I think our intent is to provide the most equitable prices that we can to all of our customers.

I think right now that's going to be fairly easy to do because most of our ag water pumpers are paying in the neighborhood of 12 to 14 cents a kilowatt hour. And I think that any relief that I can provide them is going to be welcome. And there is going to be plenty of opportunity to lower those costs and to construct the facilities that we need to.

The other ag customers I'm going to have -- I'm not going to be able to provide the same benefits because the larger users have a high load factor. Some of them already have transmission service. I may only be able to give them a penny or two reduction on the CTC credit, but in most cases that's enough to provide for their distribution system also, because of the high load factor and the large quantity of energy.

So I don't think that there's any specific answer that I can give you. I think that the -- I'm looking at giving the ag water pumpers a lot larger break on a per-kilowatt-hour basis, but probably on the total, dollarwise, it's got to go to the ag processors, the larger load people because they use more power.

COMMISSIONER SHARPLESS: Okay. So back to the issue, though, of identification of these customers so that we make sure that there's no cost shifting.

To those of us who are not part of an irrigation district, those of us who are ratepayers who are on the system and that will be paying the CTC, I'm all for competition, but those ratepayers don't have another choice.

And when they wind up paying a higher level CTC because of all of these exemptions, I think they have reason to cry out, right? So, with that in mind,

with that in mind I think that there is a concern about how we define these megawatts.

I'm sympathetic to the irrigation districts and I'm trying to build a competition. I think that's what we all want. But I think we're also concerned about the ratepayers who are paying the CTC in the next four years.

So the question becomes one back to the discussion before I tried to figure out whether all these proposals were the same. And that is: How do you identify your customers that are getting the CTC exemption? Some of them will be metered? Some of them won't?

MR. MOUNT: I think they will have to be by class because of --

COMMISSIONER SHARPLESS: All metered by class?

MR. MOUNT: Because if we're going to treat them equitably we're going to treat them equitably by classes.

COMMISSIONER SHARPLESS: I don't understand. So that -- that --

MR. MOUNT: In other words, if we're going to share those CTC exemptions between our growers we're going to have to treat them as a class, like we were talking about on the demand basis, and provide the information on the number of credits by class.

COMMISSIONER ROHY: And so I understand your answer then, by "class" this would be everyone, first of all, that's hooked up with your meter and your distribution system, --

MR. MOUNT: That's correct.

COMMISSIONER ROHY: -- that is a residential or a commercial or an industrial class?

MR. MOUNT: That's correct.

COMMISSIONER ROHY: And then you would give them one rate for --

MR. MOUNT: That's correct.

COMMISSIONER ROHY: -- residential or a different rate for commercial or a different rate for industrial; is that --

MR. MOUNT: That's correct.

COMMISSIONER ROHY: Am I correct in that understanding?

MS. TEN HOPE: I don't understand the mechanics of how you'll know that 50 percent of the customers -- or 50 percent of the load is ag load if you're doing an aggregate by a subdivision meter or something.

How are you tracking customers to meet that 50 percent requirement?

COMMISSIONER ROHY: And more specifically, ag pumping.

MS. TEN HOPE: Right.

MR. MOUNT: Well, I would imagine that we would do it the same way that PG&E does.

And that's not just going to be the demand meters at the beginning of the system. Although there -- from my understanding of the plans that we're preparing right now we're going to have classes of customers coming along to different substations. We're not going to have the large mix that we're talking about.

Bear in mind that we're talking a maximum of 40 megawatts in the Fresno Irrigation District. That's a fairly small load.

You know, a lot of it's going to be -- I would say right now that the greatest majority of it has been ag pumping load. There are some other incidental ag load, but those are the loads that I have discussed with potential customers.

MR. DAVIE: I think a key thing is whether you're using -- you know, what you're talking about is we're talking about a way to determine how much exemption credit each irrigation district needs, so when they file their application there's a common approach that the Energy Commission will have to say of the 110 that's available, this is how much has been requested, to then make that allocation to the irrigation districts.

The irrigation district is going to have a very tough political decision to deal with regardless of how the Energy Commission makes their decision because they're going to have to then decide which customers get how much of the allocation that's been given to them.

And the monitoring --

MR. WILLOUGHBY: Can I comment on that? I mean I don't want

anybody to be left with the impression that these are somehow benefits that are being allocated to existing irrigation district customers.

That what the irrigation district is going to have to decide, in fact, is how big of an incentive is it going to offer to, let's say, a PG&E customer to switch, because when you switch you're going to be paying the same rate. It's part of the irrigation district statute. When you switch you're going to be paying the same rate as the current customers of the irrigation districts. There can't be a rate differential.

So when you switch over from PG&E to the Fresno Irrigation District you pay the same rate as other customers in your class that are already in the Fresno Irrigation District.

The thing that we're talking about is when you switch over how much of a CTC payment to PG&E will you have to make. And that becomes -- you know, the issue here is the incentive that you offer to the PG&E customer, not -- there's nothing going to be offered to the existing customers or the Fresno Irrigation District, or any irrigation district.

COMMISSIONER ROHY: Tom, would you go through that once more, please? I didn't quite --

MR. WILLOUGHBY: Okay.

COMMISSIONER ROHY: Let me see if I understand, then you correct me. Is there a basic premise that all -- let's say residential customers -- in the irrigation district will pay the same rate?

MR. WILLOUGHBY: My understanding is that the irrigation district statute requires the same rate to be charged to each customer class whether you're a customer that is currently within the boundaries of the irrigation district or outside the boundaries.

The irrigation districts have claimed correctly that for many, many years they've, by statute, been allowed to serve outside their boundaries.

But there is a provision that says that if you do that, you can't charge the people that are outside of your boundaries to whom you're providing electric service -- you can't have a separate rate schedule for those people, whether they're residential or ag or commercial. You have to charge them the same as you charged

people in those customer classes that are within your district.

COMMISSIONER ROHY: Okay. Just stop there for a minute.

Now do the folks from Fresno agree with that statement?

MR. MOUNT: That's correct.

COMMISSIONER ROHY: Okay. Just so we don't have any disagreement.

MR. DAVIE: And I think that that is one of the reasons why you see that because of the irrigation district is charging the same rate to all their customers, if one customer gets the CTC credits and you don't share it among all, that one customer has huge benefits, the others have only negligible. So it's --

COMMISSIONER ROHY: That's what I'd like to have Tom --

MR. DAVIE: The spreading is so important --

HEARING OFFICER FAY: But that customer is previously --

MR. WILLOUGHBY: But they're not customers.

HEARING OFFICER FAY: Yet.

MR. WILLOUGHBY: These are -- yet.

HEARING OFFICER FAY: Okay.

MR. WILLOUGHBY: All of the people they're talking about, let's for the sake of discussion and simplification say, all the people they're talking about are now PG&E customers.

And they're saying, "Okay. We would like to convince these people to switch from PG&E to Fresno," which they're entitled to do. The question is that if it's a "10-megawatt" -- by some reckoning -- "customer," can they offer that customer a 1- or 2-megawatt CTC exemption to make the switch?

So the customer switches. They're paying whatever the going rate is for their energy from the district, but the question is then, okay, the district says, "Well, you would ordinarily" -- if they're a 10-megawatt customer, "you'd ordinarily have to pay CTCs on 10 megawatts, but" --

HEARING OFFICER FAY: And that CTC is a check written to PG&E in this case?

MR. WILLOUGHBY: A check written to PG&E.

But in this case we'll say that you only have to pay CTCs on eight megawatts. We will use this 2-megawatt exemption to apply to your 10 megawatts, so that you only have to pay CTCs to PG&E on 8 megawatts.

Now that leaves us with a lot of other CTC exemptions where we can go to other PG&E customers and ask them to switch. And I think we have some problems with that approach.

COMMISSIONER ROHY: Now let me go back to your first point on they must charge the same amount.

How does the CTC figure in that? They must charge the same amount for the total?

MR. WILLOUGHBY: I'm just talking about the rate for energy.

COMMISSIONER ROHY: Okay. That's what I'm asking.

MR. WILLOUGHBY: The rate for energy. And the CTCs are a separate charge.

COMMISSIONER ROHY: And the CTC --

HEARING OFFICER FAY: And that's the check that would be sent to Fresno.

MR. WILLOUGHBY: The -- that's right. Tom is right. Your electric bill, how many kilowatt hours you use, Fresno or Modesto or whoever has to charge that to -- the same rate for each customer class. And that's the check they write at the end of the month to the irrigation district.

COMMISSIONER ROHY: Okay.

MR. WILLOUGHBY: The CTC is a charge that people pay, as Tom has pointed out, to PG&E for leaving PG&E. It's their share of PG&E's stranded costs that AB 1890 says you don't escape if you switch.

And I think it's how you go about allocating these stranded costs as an inducement to get people to switch is, I think, the heart of the issue that we're bringing up here.

COMMISSIONER ROHY: And a comment here, sir.

MR. MAYER: Chris Mayer from Modesto Irrigation District. What Tom has just explained, I think generally we agree with.

Just a little background on the provision about charging the same rates both inside and outside the irrigation district boundary. That's in the Water Code. And the reason it's there is customers that are outside the irrigation district boundary and they're an electric customer of the irrigation district cannot vote for the directors of the irrigation district, nor are they protected by the regulatory process of the PUC.

So what the Water Code did was to try to protect those people from being charged a rate that would be, I presume, excessively high, although I guess it could be low, is to link the rate of the customers outside the irrigation district boundaries to the ones inside the boundaries.

There is one exception to that. And that is if the city or the county jurisdiction, where the irrigation district is serving customers outside the boundary, agrees to higher or lower rates, then they can be charged.

But absent a specific agreement either from the county if it's unincorporated or from the city, then the rates have to be the same.

COMMISSIONER ROHY: And I think the other part of my understanding is what Tom Tanton and Tom Willoughby talked about, is that the CTC is not paid to the irrigation districts, --

MR. MAYER: That's correct.

COMMISSIONER ROHY: -- it's paid to PG&E.

And you agree with that?

MR. MAYER: Absolutely.

HEARING OFFICER FAY: A question.

COMMISSIONER SHARPLESS: I'd like to ask a question of PG&E regarding, I guess, the process by which customers would be identified, and that you'd still be tracking the amount of megawatts that weren't covered by a CTC exemption, I assume. How would you go about that? And under the Fresno plan how would you go about that?

MR. MANHEIM: That's a good question. That's true.

After -- we will track -- well, let me start back and explain how we imagine the allocation procedure is going.

Once the Energy Commission has established the allocation for an irrigation district, it will then apply that allocation on a one-time basis to customers. And half of those allocations will have to go to agricultural pumping customers.

So we would expect that for the first year, for example, the customer would provide -- the irrigation district would provide us with a list of customers. If, for example, they had a 10-megawatt allocation, then they would identify 5 megawatts of agricultural pumping customers and 5 megawatts of other customers. It could be agricultural. It could be any category.

And under our proposal, of course, those megawatts are measured by the customer's annual maximum demand.

Once those customers are identified as exempt, they will operate as exempt for the rest of the period. So --

MR. MOUNT: What if one of them goes out of business?

MR. WILLOUGHBY: Well, let's --

MR. MOUNT: I'm sorry. I'm sorry.

MR. MANHEIM: If I can have a few minutes to explain --

COMMISSIONER SHARPLESS: So you're saying totally exempt, right, not partially exempt?

MR. MANHEIM: Yes, totally exempt.

So we would need to track those customers for purposes of a firewall. And we would do that in two ways for the totally exempt customers.

We would either use their reference period usage, which is determined basically the same way that we determined how much the megawatt allocation they have. And there's a proposal that we've submitted to the California Public Utilities Commission for that. And that would tell us how much of a -- how much money that customer would have contributed to CTC.

We'll track that on a monthly basis in a memorandum account for purposes of a firewall so we know exactly which side of the firewall that exemption should be allocated to, small residential, commercial or larger customers; and then how much also would be paid by that group. So there's a one-time identification of customer and then a continuing tracking.

If we have metered data made available to us for that exempt customer, then we would use that data because it's more accurate. But it may be the case that we don't have metered data available, in which case we'll use the reference period usage.

Now if irrigation district is serving a PG&E customer that is not exempt, that has not been fully allocated an exemption, then that customer will owe us a CTC. So we'll need to know who those customers are as well. And we'll need to track what their loads are as well.

And, again, we can track them either by their reference period, their historical usage or their ongoing metered usage. And then we will send them a CTC bill based upon either of those measures.

Now the problem with the Fresno approach is that they would like to reserve the right to dynamically shift the exemptions among all their customers.

And that makes it impossible to comply with the firewall and impossible to charge CTC for those customers who don't have the exemptions because at any moment, under the Fresno proposal, only those customers who actually have a consumption would be allocated the exemptions.

So we would allocate on a one-time basis for the entire period. They would allocate on an hourly basis for every hour of every year. And what we would need to know then is for every hour of every year, who were the exempt customers, what were the loads, who were the nonexempt customers and what were their loads.

So just as a practical matter, we don't think it can be done. And you can't comply legally with the firewall under their proposal.

Again, the same problem, Commissioner Sharpless, as you asked applies to the 50-percent rule. If you want to be consistent in measuring megawatts under the Fresno proposal at any one hour 50 percent of the load would have to be served by agricultural customers.

And I think what we've seen from these presentations is in certain months, you --

COMMISSIONER SHARPLESS: Fifty percent in any one hour would

have to be ag load.

MR. KEANE: In every hour.

COMMISSIONER SHARPLESS: And when we see that the ag load might be seasonal, --

MR. MANHEIM: That's the exact problem. Because in seasons where you don't have enough load, how are they going to comply with the 50-percent factor.

In fact, in Fresno's written comments what they've suggested is they use PG&E's proposal for complying with the 50-percent factor, but they'd use a completely different proposal for deciding how you get to use your allocations. And that type of inconsistency demonstrates the fallacy of their approach.

MR. TANTON: Mr. Manheim, doesn't part of those same problems manifest themselves in PG&E's proposal, where you have different customers each of whom have a 10-megawatt allocation yet their CTC is charged on a usage basis?

If someone is not on a particular month, they're not liable for any Critic at all, to begin with. So don't you run into the same sort of accounting problems with your proposal, where some people may be on or not on?

MR. MANHEIM: No, we don't because there's only a one-time allocation of the CTC exemption.

MR. TANTON: In order to maintain the firewall, if someone is not on, they're not contributing to that classes CTC, all right, even though they would -- if they are on, they would otherwise be contributing to that classes total CTC?

MR. MANHEIM: Right. So we will -- for those customers who are exempt, and we are provided metering data, we will track actual loads for purposes of determining how much should be put into the firewall account and how much of a cost should be picked up by other customers.

But that process is really different than the allocation process that we're talking about here.

MR. TANTON: So the fact that you have metered data makes the two process, in terms of accounting and just in terms of accounting, comparable, doesn't it? If you have metered data?

MR. MANHEIM: If you were to track allocations, if you were to be able to reallocate allocations on an hourly basis.

MR. TANTON: Yes.

MR. KEANE: Dennis Keane from PG&E.

I just wanted to clarify your question. Are you talking about an exempt customer that then, in a subsequent month, had zero usage?

MR. TANTON: Yes. Yes.

MR. KEANE: Okay. So once they're identified as exempt, we would track whatever their CTC obligation would have been for firewall purposes. And in a month where they didn't use anything, it would be zero in that month.

MR. WILLOUGHBY: Could I just add to that, this observation?

I think it's important in looking at this to separate out that once -- in the example we've been talking about, the customer is exempt. The customer has switched from PG&E to Fresno or whoever just doesn't pay CTCs.

Now PG&E, on the other hand, has the obligation to track what the CTC exemption means and do an accounting of all that for firewall purposes, which we propose to do. We'll do the accounting.

I think the important thing is the customer gets identified as an exempt customer. That amount of CTC exemption is linked to that customer. So from the customer's point of view, that's it.

MR. TANTON: Um-hum.

MR. WILLOUGHBY: Clearly we acknowledge that there is an accounting that must be done for purposes of the firewall. And we have indicated how we propose to do that accounting.

MR. TANTON: Now the difference in real simple terms between Fresno and PG&E is that Fresno assumes that the full 10 megawatts in this case is available each and every hour of the year. Wherein PG&E's, it might be the extreme case of that 10 megawatts is only used one hour of the year, that there's effectively a zero-capacity factor. Neither of which seem to make sense from a resource planning or a past investment for the system perspective.

MR. MANHEIM: I think in point of fact, and as this agency is fully

aware, when you plan to meet the load of the system, you plan to meet the maximum demand.

If you look through this chart here, and you need to identify how much load did PG&E plan to meet to serve these customers, the answer is 10 megawatts in every instance.

MR. TANTON: But not coincident.

MR. KEANE: Well, yeah. For the distribution system, we have to meet 10 megawatts.

MR. TANTON: Okay. And the distribution system represents --

COMMISSIONER ROHY: Excuse me. Just for procedure, please use the microphone more carefully so we get it on the record.

MR. TANTON: The distribution system doesn't represent stranded cost, does it? Because that will remain separate and distinct from the generation?

MR. WILLOUGHBY: Those costs are in the distribution charges.

MR. TANTON: Okay.

MR. WILLOUGHBY: The CTCs we're talking about here represent only generation costs.

MR. TANTON: Right. And when we plan the generation system -- I mean it's not all strictly capacity. But isn't part of the cost of that some energy?

Isn't their capital costs associated with the capacity separate and distinct from capital charges for energy?

MR. KEANE: Yes.

MR. TANTON: Okay. And of the total amount of CTC that might be exempted from -- I'm assuming, and I'm going to ask PG&E or any of the other utilities -- it's not all combustion turbines which are peaking only, I mean some of that charge is for energy related kind of facilities, isn't it?

So we don't want to take a 100-percent load factor as suggested by Fresno, because that doesn't make sense. You're not running everything full out all the time.

But a one-percent or less capacity factor doesn't seem to make a whole lot of sense either.

MR. MANHEIM: Well, -- and we're not proposing a one-percent capacity factor. What we're proposing --

MR. TANTON: But isn't that the effective result of your proposal?

MR. MANHEIM: I don't think so. A one percent's awfully extreme. It certainly -- it's --

MR. TANTON: Well, let me put my question a different way then, Mr. Manheim. And I don't want to sound argumentative.

But if you have a customer who demands 10 megawatts but demands it for only one hour of a year. Say the Stanford Linear Accelerator only runs an operation once a year, and they take 10 megawatts, is that customer treated any differently in your proposal than Hewlett-Packard, a semiconductor manufacturer, who takes 10 megawatts every hour of the year?

MR. MANHEIM: For purposes of allocating exemptions the answer is no.

But I think -- I mean the important thing to keep in mind is it wouldn't make any sense for an irrigation district to apply a whole 10-megawatt exemption to a single customer who only has a one-hour spike.

It can, instead, through its planning process, try to spread those exemptions as broadly as possible through customers that have varying load categories, load factor categories.

And then through its own rate design if it wants to find ways to spread benefits to all of its customers it can do that.

It can find a way to discount the price, A, by that one-hour spiker by charging a little bit more from everybody else. So while you can --

MR. TANTON: But if that one-hour spiker is in the same customer class. Suppose Stanford and Hewlett-Packard are in the same customer class, they can't charge them any different, can they? Under the Water Code -- was my understanding of the prior discussion.

MR. MANHEIM: Well, no. No.

MR. KEANE: Well, the rates they charge then have to be the same apparently. But they can offer to pay a credit for part of the CTC if they desire.

MR. MANHEIM: For example, Modesto Irrigation District has already proposed, I don't know if they've received approval, of a CTC credit that it would pay the customers coming over to them who will have to pay a CTC.

And somehow they've found a way around the ratemaking restrictions to be able to do that.

MR. TANTON: Okay.

MR. MANHEIM: The same thing could happen in your 1-hour 10-megawatt spiker.

MR. TANTON: Okay.

COMMISSIONER ROHY: I will take again the more administrative role, and as my blood sugar goes down and my attention span diminishes, I think we ought to take a break for lunch, recognizing the moment.

But I'd like to first get an idea of -- when we resume I'd like to go through each -- we've talked about Fresno's proposal.

I'd like to go through PG&E's and Merced's and Modesto's and see if there are any -- that could get this type of discussion going on each one of them. So can all of you be back after, say, a one-hour break, to mix travel schedules.

You have a problem, sir? Could you please come forward and state your name?

MR. MRLIK: My name is Richard Mrlik and I work for the Power Exchange Corporation.

And just a little background. We worked on a similar project through the Eastside Power Authority where we essentially have completed what this group is proposing to do today.

And I guess I have a number of questions and mostly directed towards the gentlemen from PG&E. I don't know where in the law it says that every hour 50 percent of the load must serve water pumping needs.

My understanding of the law is that at least 50 percent of the load must be for water pumping services -- or purposes. And that's a big -- I think there's a big difference in that terminology.

And I think having --

COMMISSIONER SHARPLESS: Excuse me, sir. Not water pumping, ag

--

MR. MRLIK: Agricultural.

COMMISSIONER SHARPLESS: -- ag pumping.

MR. MRLIK: Agricultural. Excuse me.

And what -- well, --

MR. WILLOUGHBY: May I interject? I think that the Eastside Power Authority provision of AB 1890 does refer to water pumping.

COMMISSIONER ROHY: There is a very specific water -- I believe it is used once --

MR. WILLOUGHBY: That's separate and appropriate from --

COMMISSIONER ROHY: -- for Eastside.

MR. MRLIK: Well, and I think what's important here is we went through the process of trying to allocate various rate structures. And at the end of the day I'd say the model that we used was a Fresno model. We aggregated load by demand.

And as a utility, one of your objectives is to most effectively aggregate that load and raise your load profile, or load factor to as high as possible. And what -- I think what PG&E is proposing precludes that principal objective of any utility.

So I think it's important that you're allowed to operate like an utility and employ your resources as efficiently and effectively as possible.

And a large part of that is being able to have a 10-megawatt allocation and allocating your load to the -- and meeting the -- and complying with the essence of the law, which is 50 percent of demand. It's very clear. Everything is in megawatts. That's demand.

And energy, by the way, in any one-hour period, energy equals demand. So I mean -- again, I think the important point here is aggregation by demand I think is very important. It allows a utility to do what they have to do.

MR. WILLOUGHBY: Mr. Chairman, I'd just like to observe that none of what has just been said applies to the Eastside Power Authority under the law, under AB 1890.

MR. MRLIK: My comments are towards the 110-megawatt set aside for irrigation districts. Thank you.

COMMISSIONER ROHY: And Eastside does -- thank you for your comments -- has a very specific reference to water pumping.

MR. WILLOUGHBY: And it is separate and apart, I think, really from the irrigation district provisions. It's a JPA and it has a separate paragraph in the legislation.

COMMISSIONER ROHY: Thank you for your comments on that.

I'd like to break for lunch and resume at 1:30 promptly. I know it's tough to find places to eat around here, but let's move on today.

[Luncheon recess taken from 12:27 to 1:35 p.m.]

COMMISSIONER ROHY: I believe that what we decided we were going to discuss the individual proposals for the megawatt conditions. But since we've lost a lot of the discussors, we might have a very short discussion here.

Karen Edson had asked to speak immediately after. I don't see her yet, so -- where is your proposal, Drake?

MR. JOHNSON: It was given at the En Banc, I believe.

COMMISSIONER ROHY: Yes, you may. I apologize for giving you a tough time.

MR. JOHNSON: That's fine.

Edison did file comments for the En Banc Hearing, but basically -- excuse me. Greg Johnson with Southern California Edison Technologies. Edison did file comments for the En Banc Hearing, but basically has addressed most of the major questions throughout the proceedings.

And at this point I think there's probably only two keys ones since we've kind of pushed all the rest of them through already and we've had no objections to those resolutions.

One is this definition of peak or not. And Edison has supported from the beginning that the peak load be used to establish the distribution of the CTC credits.

I think the peak load is based on the fact that it is true that the

generation systems are designed around the peak load.

The CTC represents really a basket of resources, not a peaker, not a hydro plant, not a coal plant. But it's those costs that are recovered for some plants that need to be -- have consist recovery for them. So in that sense it looks at a sort of a system, not maybe average, but that type of a thing. It's a basket of resources. And therefore I think that's appropriate to serve that load.

I keep in mind when I think about that that these customers really -- it's not a question of what they may be doing themselves specifically with the load, but what are their rights and privileges, if you will.

And if they have the right or privilege to turn the switch on and start that load at any point in time in the system, then the system has to be ready to handle that. And I think that may be part of the reason for viewing this.

Now there may be unique loads. Tom's example of an Accelerator. But if I owned an accelerator, I would probably be dealing with that utility trying to only run that in the winter off peak or something to try and minimize the cost of doing that.

But if I came to the utility and said, "No. I want to run it on a hot June or September day," I expect I would have a lot of support from the rest of the customers that would have to suffer from that in the sense that there would have to be added resources to supply that. Or if they could start that thing up any time they wanted. So I think it's an equity issue and it's sort of lost -- or not lost, but blended with the average on that particular issue.

Edison has also commented in our statement about the idea of aggregating. We think that the legislation is clear on that, that it does preclude that approach, and would stand by the legislation at this point on that issue.

I think that probably -- I guess there was one question that was raised back here with some other folks, in terms of Edison's -- and I guess it has to do with, I think, Modesto's proposal of the kinds of things that might be included.

I do look at our existing agricultural rates to see what kinds of loads were included. And it does talk about sort of a general -- they have to be at least 70 percent or greater of general agricultural load.

But that would not include compression of freon to make ice or compressed air for processing. It would include moving cold water as part of a process. But not the actual compression and refrigeration. I think that's another point that may come out in some of the other folks' comments.

If you have questions, I'd be happy to answer them.

HEARING OFFICER FAY: Does it include pumping hydraulic fluid or anything else that's not quite pumping water?

MR. JOHNSON: I would say in general no.

The application -- it has to do with, you know, where do you find that line of hydraulic fluid. Is it part of -- it's pumping part of the hydraulic fluid have to do with running the pumps that may serve sewage or something, because that is included in our agricultural pumping, the process of pumping.

MS. TEN HOPE: I think you were saying that 70 percent of the -- to be an ag customer, 70 percent has to be ag, but I think what you meant was 70 percent has to be pumping. In order to be on one of your ag rates, --

MR. JOHNSON: Agricultural pumping.

MS. TEN HOPE: -- 70 percent has to be agricultural pumping?

MR. JOHNSON: Yeah.

MS. TEN HOPE: Okay. I just wanted to make sure I knew what you were --

MR. JOHNSON: Yeah, agricultural pumping. And we have filed those tariff sheets with the Staff.

COMMISSIONER ROHY: I believe the Staff has suggested we use either Edison or PG&E tariffs -- either eligible or could be eligible for those tariffs, that would be agricultural use.

Ms. Kelly, could you comment on that?

MS. KELLY: Well, I think that -- with regard to the freon, are we talking about or --

COMMISSIONER ROHY: No. Just what -- how you frame your instructions here.

MS. KELLY: Oh, yes. It was that they would be either eligible under

PG&E or Edison's agricultural tariffs. And even if they were industrial -- they could be an industrial customer, but they could show that they were still eligible under either or of the tariffs?

But I don't think I've addressed whether that's freon or anything. I was just sort of focusing on this freon and everything, whether -- if that isn't included in the tariffs, I don't know.

COMMISSIONER ROHY: Uh-huh.

MR. MANHEIM: Thank you, Commissioner Rohy.

Our understanding is there's two criteria to have your load applied to the 50-percent agricultural-purposes requirement. The first is you have to be an agricultural customer, which means eligible to take service under an ag tariff, either PG&E or Edison.

Then beyond that you only get credit for that portion of your load that does pumping.

But we share -- we think that the instructions are actually drafted pretty well, because it refers to pumping of fluids, I believe. And we share Edison's concern about compression and hydraulics.

And I have very little technical background, but from what I understand, hydraulics involves the compression of a gas, air, to push something along, and that compression also involves compression of the gas, refrigerant, for example.

And that one way to draw the line on what's pumping and what's compression is to refer to liquids versus gases. And I believe that works.

So we're very open to the types of pumping purposes, not limited to water, but would include sewage, agricultural sludge, that type of thing.

If you're pushing along a liquid, that seems appropriate. If you're pressing a gas, that seems to go beyond the spirits of the compromise that we offered at the Workshop.

MS. KELLY: So freon is a --

COMMISSIONER ROHY: Commissioner Sharpless, do you have any comments?

COMMISSIONER SHARPLESS: No, that's fine.

MS. KELLY: -- gas and so that would be included.

MR. JOHNSON: I have one last closing comment.

COMMISSIONER ROHY: One more comment.

MR. JOHNSON: I don't believe, I don't recall the gentleman's last name, but the fellow that spoke representing Eastside.

I would give reasonable caution to the Committee that that arrangement is one that's negotiated within its own context. And that to make a policy decision based on that would be helpful or probably prudent to make sure that we all understood all the arrangements or part of that negotiation.

Of course that's subject to what's publicly can be available, but, anyway, that is a separate issue and was specifically called out in the legislation that way.

COMMISSIONER ROHY: Thank you very much.

HEARING OFFICER FAY: Ms. Edson.

MS. EDSON: Thank you very much. Karen Edson representing Competesis.

Let me begin by apologizing profusely for not having made an appearance prior to this time. The company has been following this matter and is working with irrigation districts in the state in the expectation that at least one of those districts will be filing an application in January.

I don't want to dwell on the issues that in the middle of the debate on here in terms of the calculation method.

I'll simply note that I think there are some very significant issues associated with accounting mechanisms as they apply to all of the alternatives, as well as firewall provisions there for the protection of consumers who are not receiving the benefit of these transition charges that the Committee needs to take into account as it weighs these policies.

The issue that I want to just raise and reinforce is the issue raised by the representative of the Stanislaus County districts who spoke before lunch. And that is the proposal that individual districts could not come together to file an application.

I'd like to suggest that if that indeed is the policy the Commission takes it will, in effect, preclude a large number of districts from taking part in this process.

And I would suggest that there may be ways under the structure of AB 1890 to allow districts to come together through mechanisms like joint power agencies or perhaps other ways that would allow, should allow them to come in and make their showing to the Commission.

So my client will be filing some written comments very soon to further develop these issues. I simply wanted to go on the record on their behalf. Thank you.

COMMISSIONER ROHY: Thank you.

COMMISSIONER SHARPLESS: If I may.

COMMISSIONER ROHY: Karen.

COMMISSIONER SHARPLESS: Just regarding the "very soon" part, Commissioner Rohy, I forget when --

COMMISSIONER ROHY: It's the 12th.

COMMISSIONER SHARPLESS: The 12th.

MS. EDSON: Yes. I understand the 12th is when you expect to release your final application.

COMMISSIONER SHARPLESS: Right. And today is the --

MS. EDSON: The 9th. I do understand. Thank you.

COMMISSIONER SHARPLESS: Okay.

HEARING OFFICER FAY: Sir, just before we go to you, I just wanted to ask: Have we finished receiving Fresno's comments on Point 4 of the application?

We had a pretty thorough discussion earlier. I just wanted to be sure we hadn't cut you off.

MR. DAVIE: No. There are some additional -- I guess one of the key things that I think Fresno would like to make certain is there -- I think Karen Edson just started to allude to it in terms of some of the firewall protections in terms of what's there in the Bill.

And I think one of the things I'm hearing, which seems to be a little bit confusing is that the firewall protection, 367(e)(1) I believe, basically says very clearly

that the residential, small commercial are only going to pay CTC -- the cost of CTC exemptions that are received by other residential, small commercial consumers.

And what it requires is whether you use the PG&E approach or any other, you're going to have to track CTCs whether it's an exempt customer or a nonexempt customer in terms of what is that liability?

For the nonexempt customer, because it has to be paid. For the exempt customer to keep track of what would have gone into the account, and what goes into it for purposes of collection for PG&E shareholders and other ratepayers.

So the hourly tracking and watching what's going on is there regardless of which allocation methodology you use. And there seems to have been some feeling earlier, indications that there was a difference, that in one you case you don't have to track it. But the firewall protections require it be tracked. If you don't, you're not going to collect the right number of dollars and the accounts aren't going to have it all there.

COMMISSIONER SHARPLESS: Could I ask a question of this gentleman?

In terms of how Fresno intends to track these customers, are you tracking them through a substation?

MR. DAVIE: Fresno will be tracking them. I mean they're going to be sending bills to the individual customers. For purposes of collection and firewall protection they would only need to be tracked at the class level. Okay? They could be tracked at that kind of --

COMMISSIONER SHARPLESS: So not you --

MR. DAVIE: They could have -- they could at that. We won't --

COMMISSIONER SHARPLESS: You're not anticipating either a demand type of meter or an hourly meter at a substation to try to track, even if it were at the classification?

MR. DAVIE: Absolutely. We aren't expecting to track as a minimum at the class level on an hourly basis.

You're going to have to track it that way because if you don't, you don't have any ability to measure whether --

COMMISSIONER SHARPLESS: And where is this going to be?

MR. DAVIE: -- PG&E's approach or anybody else's --

COMMISSIONER SHARPLESS: Is this going to be at the substation?

MR. DAVIE: Well, it will be several places. With larger customers you'll probably have a demand meter with a customer.

You know, with a residential customer would you try and treat every individual in residential with a demand meter? Or would you do some aggregation of it?

That's one of the issues that has to be dealt with. And I think the irrigation district is going to say, "What is it that makes the most sense?"

COMMISSIONER SHARPLESS: Oh, so you haven't really established the plan on how you would track these?

MR. DAVIE: We're going to track it down to whatever level of detail is necessary. And if it comes down to the point that every customer in the state has to be tracked on an hourly basis, then that's what will have to happen.

Because the liability for Fresno's customers is no different than CTC liability for a PG&E customer using direct access. So the level of tracking is going to be -- should be fairly comparable throughout the state.

COMMISSIONER SHARPLESS: What is the issue or what determination will be made that will tell you what level of tracking you'll have to make?

MR. DAVIE: Part of that will come out, I think, at the Public Utilities Commission proceeding where they are going to get into some of the actual details of what the customer pays.

You know, it makes sense, I think with irrigation districts there's some very strong logic that you can aggregate it at the irrigation district level without causing any problems. The right amount of money would be paid to PG&E for purposes of CTC collection.

COMMISSIONER SHARPLESS: Yes. But --

MR. DAVIE: You would be able to keep track of all of the firewall --

COMMISSIONER SHARPLESS: Yeah, I understand what you're saying,

Mr. Davie.

But for your purposes, for your customers, notwithstanding, you know, other -- how we deal with the other issues, how are you going to track your customers with respect to how much CTC exemptions these customers are going to get?

Are you going to -- obviously you're going to do this on an individual basis?

MR. DAVIE: For large --

COMMISSIONER SHARPLESS: At the substation level?

MR. DAVIE: For large customers it's probably going to be at that individual --

COMMISSIONER SHARPLESS: Got that part.

MR. DAVIE: -- customer meter --

COMMISSIONER SHARPLESS: Got that part.

MR. DAVIE: Okay. For smaller customers, I guess our view is -- and part of this becomes a rate schedule standpoint to the extent Fresno goes into time-of-use metering, they may end up with time-of-use demand meters with all our customers and it could be metered at the customer level.

It would not be essential -- that would be a Fresno decision. But it should not be essential to meter at the customer level as long as you're metering on a demand basis the customer class. And our --

COMMISSIONER SHARPLESS: So is it going to be at the substation? How do you --

MR. DAVIE: It will be at a substation or switching center at, you know, an aggregated customer level or you're not mixing the kind of customers. You're not mixing industrial and residential in that demand meter.

And part of that becomes the system configuration we come up with. Our belief and our view is that we're obligated to track CTC obligations down to the appropriate level to ensure that PG&E is paid the proper amount to ensure that you do not have any violation of the firewall. And --

COMMISSIONER SHARPLESS: The reason why I'm asking these

questions is not to make it difficult for you, but to get a better handle on actually how the process could work and to figure out whether or not any of the process would work. And we would be protecting the customer classes and what they might be paying.

And, two, how complicated is this process going to be? Because I think one of the things that drives this is that we don't want to establish a system that has a very complicated administrative process.

And so the reason why I'm asking you these questions is I'm trying to draw this information out of you, is to make that determination.

Now if part of your response is that, "We don't know exactly how we're going to do the smaller classes yet because it depends on what the CPUC decides," then I think the Committee needs to know that.

MR. DAVIE: I think our approach in terms of tracking the CTCs is going to be the same whether you use the PG&E peak demand or the Fresno or any other approach.

You're going to have to keep track of loads on a customer class basis, hourly as a minimum, for purposes of firewall tracking.

So at that point I'm not certain if PG&E has a specific proposal or how they view it be done, but there's no reason for two methods to have to be different.

MR. WILLOUGHBY: Could I offer a comment, Doug?

It seems to me we just heard Edison suggest that when -- after all, remember we're that being customers who switch, they switch from PG&E to an irrigation district.

But we just heard Edison suggest, for example, that the eligibility for a CTC exemption and the class that they ought to fit into be based upon the customer classification, the rate classification that these people were in as customers of Edison or PG&E.

COMMISSIONER ROHY: In or eligible for.

MR. WILLOUGHBY: In or eligible for. Excuse me.

So you look at the customer classification that they are in or would be eligible to be in as customers of the investor owned utility.

And then when they switch, that means they don't pay CTCs, but that their CTC obligation has to be allocated among the remaining customers of the utility. And that's where you have the firewall principle. And that's where you have to figure out how you allocate that CTC responsibility.

COMMISSIONER SHARPLESS: Does anything lead you to believe, Tom, that that wasn't the issue I was trying to get to?

MR. WILLOUGHBY: Well, I guess I --

COMMISSIONER SHARPLESS: That's one of the issues I've been trying to get to.

MR. WILLOUGHBY: But I think the question is: What kind of information are they going to give us about that customer?

Because they could call that customer anything. They could call it "Fred" and have a classification -- once the customer switches, we don't know what classification that customer will have as an irrigation district customer.

If their eligibility to switch and not pay CTCs is based upon the customer class that they were in or were eligible to be in as a utility, a regulated utility customer, then once they switch, how they're labeled by the irrigation district, it seems to me, may not be relevant.

COMMISSIONER SHARPLESS: Let me ask you a question, though, Tom.

Why would they be labeled any differently in an irrigation district than they would be with PG&E?

How would a small commercial become an industrial or an industrial become a small commercial?

MR. WILLOUGHBY: I think Dennis Keane may be able to answer that better than I.

MR. KEANE: Under our approach, we basically would have individual customers identified as being exempt or not exempt.

So we would know what class they're in. And it would be an easy one-time basis, we would know, we could estimate what they're obligation would be. And then we can track it from there.

I might --

COMMISSIONER SHARPLESS: Thank you, Dennis.

But that doesn't answer the question. The question is: Why -- I meant Tom raises the issue about if the customer switches, that PG&E would have difficulty knowing what class that person might be in. Perhaps they become a different class.

MR. KEANE: No, no. I think our problem with their approach is they want to look at every hour. And in the aggregate it exceeds the allocation they're going to say a CTC applies.

But what's unclear is how they're going to decide which customers will owe it. I mean it's very arbitrary --

COMMISSIONER SHARPLESS: How to appropriate it --

MR. KEANE: -- who you assign it to.

COMMISSIONER SHARPLESS: -- back to the aggregated.

Mr. Davie, would you like to respond?

MR. DAVIE: Well, as I say, the irrigation district is going to have to be looking at how do they allocate those CTCs.

This is where the full versus the partial issue comes in to play. The Fresno Irrigation District is not looking at stopping at -- their exemption amount is only 40. They're not looking to stop at that point.

So the question is, in our view, is that clearly the Fresno Irrigation District has to authority to say, "I don't give it all to these customers and none to these." They can give partials. and therefore every customer has a liability for copyright CTC. And that's the fair way to do it.

COMMISSIONER SHARPLESS: So you --

MR. DAVIE: So we will be allocating -- you know, and the methodology that we have, the specific methodology developed not in total. Because until we know that that's the way we can do it, you know, how far do you go in developing and building everything until you know that that is, in fact, the way to go.

But it can be put together. And we will be tracking every customer

hourly.

The firewall requires that same tracking, even with PG&E's. Because in an hour when that customer that has the exemption is using power, the exact amount of power translates to the amount of CTCs that would have been paid that go into that accounting mechanism. So the hourly tracking requirement is the same --

COMMISSIONER SHARPLESS: All right, Mr. Davie. But it's connecting the two things together.

I understand what you're talking about in terms of aggregating and doing it by the customer class. But when you do exceed your megawatt level, how are you going to then allocate back who pays what is over that megawatt level?

And does it make your difference? You're just going to say, "Everybody exceeded the megawatt level. And I'm going to just apportion a part of that megawatt liability back to every customer in Fresno's District regardless of what their rates are and regardless of who they are."

Is that how you would do it?

MR. DAVIE: Well, as of right now Fresno has not made a policy decision whether they want to give the exemption allocations on a first-come, first-served, on a first-come, first-served with a cutoff -- everybody up to a cutoff date fits into a category, or whether they want to go a pro rata if it's continually changing over time.

It's a policy decision that the Fresno Irrigation District has not made, in part because you don't head any particular direction until you know that's the way that is the proven and the proper approach. So they're trying to set a framework --

COMMISSIONER SHARPLESS: You've given that response. I'm just curious: Is it the CPUC's decision that prevents you from totally detailing out your proposal?

MR. DAVIE: The CPUC decision, if they require that every customer be tracked on a demand meter, that is going to affect it, because those customers that are leaving PG&E will end up with an obligation to have some sort of hourly demand tracking or default used --

COMMISSIONER SHARPLESS: That was kind of a yes, no question. I meant is it the CPUC process that you feel dictates how you would go about this, not a decision that would may be --

MR. DAVIE: That's part of it. That is part of it.

COMMISSIONER SHARPLESS: -- not a decision that would be made by the CEC?

MR. DAVIE: What I'm trying to indicate now, Commissioner Sharpless, is that -- there's part of it in terms of what level of detail is necessary for metering can, in fact, be linked to what the PUC decision were to come out with.

There's a policy decision that the irrigation district board will deal with, which is once they have their amount of allocation, their exemption, how do they want to then allocate it to their customers? Okay. That part of it, they can proceed with independent of the PUC's decision.

And I guess that the question that does really come up is that once they receive an allocation based on whichever method the Energy Commission uses, do they have any constraints on their ability to decide in the policy decision as to which customers they can, in fact, give the allocation exemptions to?

And it's our view that regardless of the method of what you measure demand, that the irrigation district does have flexibility to share the allocations among their customers. And what it really comes down to is whether or not there is going to be a -- now the PG&E approach, which basically says, "Make certain you minimize the ability of CTC exemptions to protect them from the competition or prevent the benefits of the exemption from being shared. Give it all to one customer. Don't allow it to be shared among multiple customers."

COMMISSIONER SHARPLESS: Well, there's another issues, and that's the issue that the CEC makes a decision and then a whole process comes to a halt because the CEC's decision prevents PG&E from appropriately allocating to its clientele the CTC liability.

And I think that the Energy Commission doesn't want to be part of a legal suit that says PG&E cannot fulfill its requirements of section blah-blah-blah of the Public Utilities Code because our calculations permit them from doing so.

That is why I think it's important to get to the detail of how this would work with the Fresno plan. And we're kind of in a loop here that we can't resolve today, at least from my view, because the details are not there.

MS. KELLY: Can I ask a question, maybe with an example? I'm what -- as you can see, I like examples. And maybe I can just ask this question.

I don't have it on the board, but let's just say in hour one you have four customers. You have -- I can see my writing here -- you have a residential customer, an agricultural customer and -- let's see, residential, agricultural, industrial and -- let's say another residential customer.

At one hour the first one's load is 2, the next one is 3, the next one is 2 and the next one is 3, and it equals 10 megawatts. Ten megawatts is the exemption that Fresno has, okay?

So just basically, 4 customers of different classes, and their total load equals 10 megawatts.

In hour number 2 their load changes. And the same people, the residential customer has a load of 3, the agricultural has a load of 3, the industrial has 4 and the other customer's 3. So now instead of having a load of 10 megawatts you have a load of 13 megawatts.

And my question always is: How do I know which one of these customers -- you have 13 extra -- 3 extra megawatts over the 10-megawatt allocation, how does Fresno determine which one of the customers went over and how much the firewall is for each of those particular customers?

See, they went over. And so you have 14 megawatts -- 13, excuse me. How do you know which one of those customers was the first one to violate that 10 megawatts and report that as -- you know, the residential customer, was it the industrial customer. Which customer was it?

MR. MOUNT: They all violate the --

MR. DAVIE: Sure. It wasn't any one single one.

MS. KELLY: Well, but then yes. The irrigation district's allocation violates it. But how do you determine which, you know, category of customer class is charged for the CTC?

I just never can figure this out.

MR. WILLOUGHBY: A corollary to that, I might add, I think is even if you stay within the 10-megawatt limit and had different loads from hour to hour, how do you allocate for firewall purposes?

MR. MOUNT: One of the problems we've got in determining what the calculation is going to be on an example like this is we haven't gotten the information yet from the utilities on what the CTC is going to be for each of those customer classes.

Now if we could get that information and plug it into your formula it would be fairly simple. You've got, what is it, 3/13ths of --

MS. KELLY: Yeah. I think we need -- you know, what I have trouble is identifying the customer. I mean which one violates -- you know, which one do you charge the CTC --

MR. MOUNT: They all do equally.

MS. KELLY: -- first?

MR. MOUNT: They all do equally.

COMMISSIONER ROHY: And then we get into the firewall issue.

MR. TANTON: Does that mean that you would prorate that overage in some way?

MR. MOUNT: Yes.

MR. DAVIE: That can be done. I mean regardless of what you --

MS. KELLY: How?

MR. DAVIE: Well, there's --

MR. MOUNT: Pro rata.

MR. DAVIE: -- 10 megawatts of load that is not paying CTC in that second hour. Three megawatts is. And so PG&E is going to get the number based on Fresno's allocation criteria.

And part of it is -- do they say each of these, ah, that -- that the two-three, two-three, those are, in fact, what each customer has and therefore in the second hour two of the customers have no CTC and two of the customers do, well, one has one mega- --

MS. KELLY: Which ones, though? I mean do the four --

MR. DAVIE: Well, the two of them went up.

MS. KELLY: -- industrial?

MR. DAVIE: No, no. Linda, the two of them went up. One went from two to three, the other one from two to four.

And one way to be say that customer has one and the other one has two. And that is the three megawatts. That is one way that Fresno could do it.

Another way would be to say --

MS. TEN HOPE: But excuse me. Then that assumes that you're metering each one of those customers individually in order to know that their demand just increased from two to three megawatts, right? So you are then --

MR. MOUNT: Or you're metering a group of customers.

MS. KELLY: A group of customers, so you wouldn't know which ones

--

MR. DAVIE: Or if the two that went over, if the two that went up are both residential, those could be on a common meter, and it went from four to seven, they're both -- if it's all residential. So then there's three megawatts of residential.

The dollars PG&E collects, whether they collect at one-third, two-third from those two customers or three from those two combined, it's the same dollars because the CTC for that class will be the same.

And for firewall purposes, the amount -- the 10 megawatts that's getting the exemption will be tracked in the CTC exemption category. The piece that is coming from residential and the small commercial goes into one side of it for the firewall; the rest of it will go to the other side. So you have complete protection and accounting of all the dollars.

And where you use PG&E's demand approach, noncoincident peak demand, the same question would come up I think with those customers. Because if the customer that had two went to four, there's a liability.

So now there has to be tracking for firewall purposes that two megawatts. You have to be tracking what is being collected and not being collected

for firewall purposes for the customers. So the hourly accounting by customer will be the same.

MS. TEN HOPE: It seems like -- in this proposal it seems difficult to do the accounting on both sides. That proposals that you identified the customer first, you know their load and you figure out their allocation and you're tracking that allocation by customer, it's easy for the irrigation district on the IOU side to track that customer and that allocation and the accounting back and forth.

In the Fresno method, it seems like Fresno is the only party that has access and can verify the load. Is that correct?

I mean you can't track customer to customer. PG&E can't track back to see whether this allocation customer by customer is accurate.

Whereas the others seem to have -- unless I'm misunderstanding your proposal -- have a check and balance from the irrigation district to the IOU and vice-versa.

MR. DAVIE: I guess I don't see that check and balance because regardless of the method that you use for basing your allocations, whether you look at the peak demand as the amount the irrigation district needs to fully cover themselves or the Merced or the Modesto or the Fresno, whichever approach you say to determine what is the maximum number of megawatts they need for 100 percent protection of their expected load, you still come down to the fact that if they don't get that amount, then there's going to be a CTC liability from the group of customers that switched to the irrigation district.

And you have to track, on an hourly basis, where the CTC is being collected, where it is being avoided for firewall purposes as well as for payment to PG&E by the customers.

And regardless of the method you use, you have to track in the hourly data. And regardless of the method you use, those customers have all gone from PG&E to the irrigation district and only the irrigation district is going to have that hourly metering that's necessary for tracking CTC liability as well as for tracking CTC for firewall protection purposes.

MR. MANHEIM: Can I just say as a general caution that the

Commission should not rely on any of Mr. Davie's statements about PG&E's position or what the CPUC will do because there were so many misstatements about it, it would take me 45 minutes, I think to clarify every piece.

So where there's an opportunity I'll try to jump in and clarify. But I've been trying to keep track as he's been speaking and there's been so many misstatements about it, I think it would be best if you would just disregarded any characterization he's made of PG&E's position or what we've done at the CPUC.

COMMISSIONER ROHY: Well, I think from a procedural point of view, I'd like to have people describe their proposals and to some extent it's necessary to have cross-examination, if you will.

It's not really a hearing today, it's more of a conference, but cross-questions to clarify things. But I would appreciate it if people would try to explain theirs so we understand your proposals as for the Committee's benefit partially and for your benefit today, so we can understand each side of these proposals.

And I recognize you're -- and I think it's important that we do try to describe these things. In some cases we've gone over the same ground many times today. And so I'd like to work toward a process now of moving forward in hearing other proposals.

Before I do that, there are two gentlemen that have indicated their desire to speak. And this gentleman in the white shirt was the first.

MR. ZACKY: I'm Richard Zacky with Zacky Farms.

I heard a few comments from the gentleman from Edison that I wanted to clarify from our position, at least.

We have five ranches in their service territory, poultry ranches. And they are classified as agriculture. Most of the electric load is not pumping water. So I wanted to clarify that. We are agriculture. It's not pumping -- or most of it is not pumping.

Also I wanted to discuss a little about hydraulics. Hydraulic is a fluid. It is pumped. You can have different types of pumps. And we feel going with hydraulics is a more sanitary operation. We use that.

And third I just want to comment, about ammonia. It's a gas and a liquid. It depends -- throughout the loop system, in the plumbing, it depends on what pressure it's at and what location temperatures it changes. So it's not just a gas. I think as we're defining what agricultural pumping is, I just wanted to bring those points out.

Thank you.

COMMISSIONER ROHY: I come from the gas turbine industry, and we consider air a fluid.

MR. ZACKY: Okay.

COMMISSIONER ROHY: It's not a liquid, it's a fluid.

MR. ZACKY: It's a fluid, and I think it's just -- as we come up with the definition, I want to just add my piece.

Thank you.

COMMISSIONER ROHY: The gentleman in the back.

MR. TRUDEAU: Jim Trudeau, Power Providers.

I'm hearing a lot of interesting descriptions of what is or isn't an ag customer. And I would encourage the Commission to do something.

As a former PG&E major account rep for some many, many years -- I know most of the PG&E people in the room here -- off the top of my head as I sat here I thought, "Well, gee, the major PG&E ag rate for large customers is AG5B."

And I thought of Grimway [phonetic] Farms, Zacky Farms, Foster Farms, Dole Fresh Fruit, Premier Packing, all of which are refrigeration loads. All of these customers have been classified ag by PG&E for years and years ad infinitum.

I would suggest that we accept PG&E's definition of what an ag customer in that case is. And my I suggest that rather than deal in rhetoric, that the Commission staff simply request from PG&E and So Cal Edison a list of those customers, and for example, PG&E's AG5B rate, who are in excess of one megawatt, and then let the Commission itself see how PG&E has defined it, in fact, not in words.

COMMISSIONER ROHY: Thank you for your comment.

We've certainly covered a lot of ground here on the Fresno proposal.

MR. MUSSETTER: Before you leave, Commissioner, before you leave Fresno, would you allow one more --

COMMISSIONER ROHY: I will allow you one comment and Mr. Tanton will return with a question of Fresno.

MR. TANTON: The question might not be for you, Bob.

MR. MUSSETTER: That's all right.

I think we have to admit or just plan on the meters are going to be the thing of the future. I think you're going to see these districts, that's going to be one of their major investments, is recording and communicating meters that we haven't seen much of heretofore.

Now in Glenn-Colusa Irrigation District up north our vision of that is that, first of all, 50 percent of this allocation is off the table. It goes to the ag -- it's going to go to some ag pumps, mostly pumping water, but some in food processing plant.

Basically 50 percent of it's off the table. That's going to get some exemption allocated to it. So you have 50 percent left. That's going to go to ag businesses. And I don't know why the Fresno concept can't be made to work in this day of age of computers recording and reporting meters, because that's not a lot of data.

And if you want a formula for allocating Ms. Kelly's example, you could on count on an hourly basis, if you could go over the exempt threshold then you would distribute it ratably among those customers who were online at that hour, you'd have that data. Distribute the charge, the Critic, ratably to those people.

I don't think this is very difficult and it's certainly not insurmountable.

MR. TANTON: I have a question I believe for Mr. Davie.

You had indicated earlier that customers within a class would be sort of metered together. So you'd have three or four perhaps residential, they would have one meter, possibly.

My question is whether that customer classification would be based upon the rate they are receiving from Fresno, or whether that grouping could be based upon the prior rate that they were assigned to under the PG&E arrangement?

MR. DAVIE: I think the grouping has to go back to PG&E's prior approach, because that is where CTCs are not going to be collected or they are going to be collected. So --

MR. TANTON: Okay. And that process will be --

MR. DAVIE: Our classification has --

MR. TANTON: -- described in your application?

MR. DAVIE: -- nothing to do with the CTC liability. That's the PG&E they're leaving.

MR. TANTON: Okay.

MR. DAVIE: The other thing that's important -- or the reason that's really important is that the approach for allocating CTCs are exemption allocations may be what Fresno wants to do may be what different than what Merced is doing with theirs, which is totally unrelated.

It's different than what Modesto would do with theirs. Or anybody else that has one.

That the irrigation districts with their separate autonomy and ratesetting authority may do different things in terms of how they want to actuality the CTC exemptions given to them.

MR. TANTON: And you see that decision being a decision of the elected board of directors in each and every case?

MR. DAVIE: Absolutely.

COMMISSIONER ROHY: And what I'd like you to go forward and compare these is really a question that we started with, but we go astray on many issues here, is the one of how do we figure the megawatt number. And we have the four calculations that Ms. Kelly gave us.

And I can infer again from listening to Fresno, that their numbers, in fact, may be similar to Merced's in the sense that it's a hundred-percent useful load factor. If you can possibly can, you'll use all of it. That if you had a 10-megawatt exemption you'd rotate that around and have 10 megawatts full time. That's my understanding of yours.

So what we get to when I compare the five different proposals here is

the load factor is quite different on the different proposals. And therefore it comes to a difference of how much energy is going to be exempted in those different proposals.

I see quite a difference in the amount of energy that will be exempted when we compare one to another. So I'd like to address that as we go through and compare the proposals.

Do you have a short comment, sir?

MR. NAHIGIAN: I guess I do actually. I'm sorry, Commissioner, you fed me you are my straight line --

HEARING OFFICER FAY: And you are, sir?

COMMISSIONER ROHY: Name and --

MR. NAHIGIAN: Jeff Nahigian. I'm with JBS Energy, and I'm here on behalf of TURN, The Utility Reform Network, newly named. New and improved.

And you kind of fed me a straight line on the load factor and what that means. And I can't really say that I have the detailed information or knowledge of all these fast -- all the various metering proposals in terms of protecting against the firewall.

But I do have a good sense on some numbers for an issue that really hasn't been discussed yet, and I think is pretty important, and that's how much money is involved here in terms of the CTC exemption and based on various proposals by the irrigation districts and based on what PG&E has here.

Now essentially I think you got it right on the money. The issue has to do with the load factor. And PG&E's proposal has a load factor that is somewhat less. And their understanding of what the demand is somewhat more rigorous than I would say we have here from the irrigation districts.

But let me give you a few numbers so you guys can kind of figure out, you know, have a good feel for really what's going on here.

If you took PG&E's numbers, their results in somewhat like approximately a 25-percent load factor for their irrigation district customers. They have a 110-megawatts allocated to them. We'll assume that the CTC component of the rates for the residential and agricultural class is around 5 cents.

So what we do is we take 5 cents, we multiply it by the number of hours in a year at a 25-percent load factor, and we spread that out over five years. For that 110-megawatt CTC exemption for PG&E, it's \$60 million. Okay.

Now let's go to the other broad side of the spectrum, and that's Fresno's proposal. Fresno's proposal is a hundred-percent load factor.

The math translates pretty easy. All you do is you just -- you know, instead of multiplying by a 25-percent load factor, you multiply by 100 percent load factor. Now my CTC exemption has gone from \$60 million to a quarter billion dollars, okay?

That means that if we go with Fresno's proposal, the remaining existing residential -- or the existing ratepayers on the utility are going to be paying close to \$190 million more in CTC if we go with Fresno versus what PG&E would propose, okay? It's a lot of money.

And we're very concerned about that. You know, we're already stuck with paying quite a bit in CTC. And we're not interested in having to pay any more than we really have to.

The light at the end of the tunnel for the residential class in this competitive environment the PUC has set up has been in hopefully having some sort of competition for the residential class, and that would demand aggregation.

So I'm walking a pretty thin line right here now, because in one respect, I have no interest in recommending any other proposal than PG&E because PG&E protects my customer classes and protects my constituency way beyond what the irrigation districts here would propose.

But I won't go down that line. There is a chance here. The thin line I'm walking is the risk I have now. I have a risk of a whole lot more CTC I have to pay if I go with some of these irrigation districts' proposals.

But in exchange for the risk I want something else. I may be able to forego some of that. I may actually be able to pay a couple bucks to take on that risk provided I have some assurances about one thing.

And the line I'm running here is the risk between paying a huge amount of extra CTC I don't have to pay versus an experiment and an experience

here and possibly aggregation for my constituents or aggregation for the residential class.

Now I have to legitimately tell you that if we went PG&E's proposal on classifying demand, that would leave -- their proposal leaves a fairly small load factor for residential customers in irrigation districts. It'd be about around the order of about 10 percent. And what that would mean is there would not be a whole lot of incentive on any of these irrigation districts to go out there and try sign up some residential customers for aggregation. It's important to us to try and get the experiment going.

But I'm not absolutely -- and TURN is not absolutely assured the competition -- this is going to actually provide all the benefits. But we know if you don't go down that path we're never going to know.

So we're willing to go and forego a small amount of extra CTC exemption in exchange for some sort of experiment, some sort of data collection and some sort of ability to understand how any sort of aggregation -- or when these guys go out there and try and get a new residential load, and through aggregation, if we can have some sort of data that's in the hands of somebody that's possibly objective about it, doesn't have the confidentiality concerns, such as the Staff or something like that, we might not be adverse to something other than PG&E's proposal right here.

I'm not sure that's doable. I don't know. I really don't. But I know that that's our concern. And that's really what we would be willing to give up in exchange for having to pay extra CTC because of the large exemptions that are coming apart from these proposals.

But if we don't have that and we're not allowed the data exchange and we're not allowed any sort of data to be able to understand how this aggregation experiment might work, we have no interest in going out there and assuming the risk of what the irrigation districts here are proposing. Because we're the ones that are going to be paying the money.

COMMISSIONER ROHY: A question: Do you have a proposal that you have written down to this respect?

MR. NAHIGIAN: No, not written down. I can provide that. I'm afraid

--

COMMISSIONER ROHY: The time is short, though.

MR. NAHIGIAN: Yeah, yeah. I was pulled in at the last minute.

Believe me, I understand.

COMMISSIONER ROHY: Oh, I was certainly afraid when you started talking that we were going to have the press in here that "TURN agrees with PG&E." I could see the headlines.

MR. NAHIGIAN: Well, you know, it's not the first time, believe me. It's not always black and white.

COMMISSIONER ROHY: I'm just pulling your leg, of course.

MR. NAHIGIAN: In this respect it wouldn't be a precedent.

But in this respect I would say our proposal would be, you know, our compromise is the Staff, because the Staff has a somewhat -- we believe that their definition of what load is and what peak demand is probably the appropriate one. It's a little less rigorous than PG&E's. It might involve a little bit more CTC exemption.

And we wouldn't be opposed to that given the fact that we would be able to have that data and that we would be able to be -- able to have that, to share it, to look at it and to see how this aggregation program goes. It's not -- now I'm afraid you got your headline.

MR. MANHEIM: Can I ask one clarifying question?

COMMISSIONER ROHY: Certainly.

MR. MANHEIM: The aggregation program would be administered by the irrigation districts; is that --

MR. NAHIGIAN: Yes. That's what I would imagine.

And I would imagine that you'd have to give that sort of information -- because nobody wants to be giving all this confidential, proprietary customer information -- give it to someone that has an objective standpoint, can sign confidentiality agreements and provide it to people to -- somewhat to consumer groups, not to other competitors, but to consumer groups, PUC Staff, CEC Staff, to be

able to make an intelligent decision on whether or not aggregation is going to work.

But that's our tradeoff.

MR. WILLOUGHBY: May I ask you a question? This would be just a similar aggregation program to the kind of aggregation that might be done under direct access, correct?

That someone would simply represent a group of, let's say, residential customers who wanted to purchase that power or become irrigation districts customers rather than purchase it from the *XYZ Energy Company*.

MR. NAHIGIAN: It would seem to be somewhat similar from that, yes. Yeah.

MR. DAVIE: Isn't the change, though, that basically in this case the residential customers would have a CTC exemption?

MR. MOUNT: Yeah.

MR. NAHIGIAN: I'm sorry.

MR. DAVIE: In other words, you're looking for an experiment to get the residential customers a CTC exemption?

MR. NAHIGIAN: No. The experiment is really the aggregation and try and get a better deal. If it involves a CTC exemption, if that's what attracts them to it, if that's what you're marketing program is, then so be it. But that's not exactly -- that's not what I'm asking, you know.

I mean whatever your marketing technique is. But that's what you're asking for right now.

MR. DAVIE: Okay. Well, I was trying to understand exactly what your experiment was.

MR. NAHIGIAN: Yeah. Well, that's in the event that you go out there, you get a whole bunch of CTC exemption, you use it as a marketing tool to go out there and attract customers, well, you know, under certain proposals not many people would want to go out there and get a 10-percent load factor customer like a residential. No one's worried about the industrial and the other larger guys.

MR. DAVIE: You're absolutely correct. Because using PG&E's method is going to direct the irrigation districts only to high load factor customers were

you've got the pumping there. And the rest of the ratepayers, the rest of California consumers that could benefit in irrigation district service areas will get nothing.

MR. MANHEIM: That's true for all of the proposals. I think we've asked Mr. Davie about that.

MR. NAHIGIAN: That could be true for all.

And I wouldn't disagree with that. You know, I wouldn't disagree with that. But then you have to also understand, it's still costing me a lot more money, okay?

I mean despite -- I've got my tradeoff here. Do I go buy it at a 190 million bucks?

MR. MUSSETTER: You haven't read the Bill. I beg to differ with you.

MR. TANTON: And, Jeff, perhaps you can explain why you would be paying more under the one scenario versus the other, why residential customers would be paying more?

MR. NAHIGIAN: Because you're paying for the CTC by the amount of kilowatt hours. And that's what everybody here is talking about. You're talking about trying to get the --

MR. TANTON: Wait a minute. Let me try my question again.

MR. NAHIGIAN: Okay.

MR. TANTON: Residential consumers are going to pay a certain amount of CTC. Some of those residential consumers may exit and be exempt and the remaining will pay a little bit more than they would have had those customers not left.

But the group --

MR. NAHIGIAN: Provided you -- yeah.

MR. TANTON: But the group of customers called residential will paying neither more nor less; is that correct?

MR. NAHIGIAN: The remaining customers would -- the remaining --

MR. TANTON: No. The entire class of residential consumers will be paying neither more nor less; is that correct?

MR. NAHIGIAN: Well, if you can get some of the firewall protection

items here about your metering questions.

Whether or not you can do that accurately, that's another big question, so I'm not really sure I'm completely able to just agree with you totally.

On a broad issue, possibly. If you got everything right, maybe. But I'm still --

MR. TANTON: Okay. I'm trying to --

MR. NAHIGIAN: But I'm still here representing, you know, the IOUs remaining residential customers.

MR. TANTON: And just IOUs, remaining residential consumers; is that correct?

MR. NAHIGIAN: I'm sorry?

MR. TANTON: If somebody leaves PG&E and goes to Fresno and they're a residential consumer, you no longer represent them?

MR. NAHIGIAN: Yeah, I don't represent irrigation district residential customers.

MR. TANTON: Okay. All right.

COMMISSIONER ROHY: My understanding of your argument, though, was that there would be more megawatt -- or kilowatt hours sold under one proposal than the other or more exempted than --

MR. NAHIGIAN: More exempted, yeah. And it's --

COMMISSIONER ROHY: And that was what these --

MR. NAHIGIAN: It's not a zero sum game, as you would see, you know. Maybe, sure, you've got an exemption for these guys. But I'm still left with all my remaining IOU customers paying more, whether or not you got the firewall right or not.

COMMISSIONER ROHY: Because there will be more kilowatt hours exempted?

MR. NAHIGIAN: Yes, yes. And the CTC stays the same.

COMMISSIONER ROHY: Whether it's four to one or three to one -- I don't want to argue those numbers -- but there is some difference between the PG&E proposal?

Am I clear on what I thought I hear you saying?

MR. NAHIGIAN: Yes, yes, absolutely. And I believe the numbers in terms of -- you know, back of the envelope, off the cuff, I'm pretty confident with those numbers.

So we're talking a wide variety of money here.

COMMISSIONER ROHY: Another comment over here?

MR. KRAUSE: Garith Krause, Merced Irrigation District.

I just wanted to point out that a lot of these issues on how the compromises were made between residential and other rate classes were accomplished during the legislative process.

The determination on how the cost got shifted were determined at that time. So I think those kinds of issues were resolved during the legislative process.

And I don't believe the question is here today on determining the exact method of limiting the use of these exemptions. I believe that that was set out in the legislative process. There may be questions about what's a reasonable way of determining the measurement of a megawatt.

But I don't believe the question here today is limiting megawatt usage. And of course terms set at the same legislative tables this summer with the rest of us.

I believe that the comment that Mr. Manheim made about that all the proposals are the same that would limit the use of these exemptions for customers, I would encourage the Commission to disregard Mr. Manheim's characterization of Merced's proposal as being in that class.

Our proposal would enable us to serve a wide variety of customers without focusing on one class to the detriment of the other classes.

The PG&E proposal, in fact, causes irrigation districts, and the Staff proposal causes irrigation districts to focus on customers with high load factors to the detriment of other classes including residential customers.

We made presentations in the eastern Merced County area to communities and organizations about our program in eastern Merced County. PG&E attends all those meetings to track our comments.

And in the discussions and the question periods that we had at those presentations, one of the questions that PG&E consistently asked, "Will you be serving all customers?"

And to that end we answered, "Yes. We have made a demand to serve all customer classes, presuming that we get to act as a regular utility."

But the economics of the proposal that's predicated here by PG&E today doesn't allow any of the irrigation district entities to act as a regular utility.

MR. NAHIGIAN: I'm afraid I do have one comment on that. I mean as to TURN being at the table, at the legislative table, I mean obviously I wasn't. I'm not the legislative analyst. I'm a poor but humble techno nerd here.

But I can tell you if you had actually portrayed that your proposal would be somewhat like Fresno's here in that you would assume a hundred-percent load factor for CTC exemption, I am not absolutely sure TURN would have signed on to that.

MR. KRAUSE: Well, in response to that I would say that no one at the table this summer thought that what we agreed to meant that there was a 25-percent load factor involved.

MR. DAVIE: Could I --

MR. MANHEIM: Can I respond to that?

COMMISSIONER ROHY: Wait just a minute. Excuse me just a minute. I'd like to complete the discussion with the gentleman from TURN, or have you completed your comments now?

MR. NAHIGIAN: Yeah. Yes, sir.

COMMISSIONER ROHY: Okay. Thank you.

COMMISSIONER SHARPLESS: If I could, though, Dave. I don't understand precisely what his proposal is. I'm still a little bit confused of what he's suggesting.

He's suggesting doing something like the Fresno proposal, but having the CEC Staff -- explain it to me.

MR. NAHIGIAN: No, I'm sorry. Let me make this very clear. I'm sorry that was so cloudy.

Absolutely not. I am not recommending the Fresno proposal whatsoever, in terms of -- as a matter of fact, I oppose that a hundred percent.

My initial position would be: fine. I'll support PG&E's definition of demand for CTC exemption unless I can get assurance from the irrigation districts that they will be able to provide some information that's valuable on residential aggregation of new customers that they plan on signing up.

If they were about -- if they were willing to do that and do it in the manner that I've prescribed, then I would recommend the Staff's approach, and that's as far as I go.

I oppose every single one of the irrigation districts' definitions of load.

COMMISSIONER ROHY: On the --

COMMISSIONER SHARPLESS: But can you be more specific, though, about what --

MR. NAHIGIAN: What the process would be?

COMMISSIONER SHARPLESS: No -- well, that, or what information you would be asking for from the irrigation districts on aggregation. What are we talking about?

MR. NAHIGIAN: Probably you'd want information on metering, on what metering they've had, on what the load profile looks like, on -- you know, I can't really address that in specifics because I haven't had a chance to really sit down and think about it in vast detail. I'm certainly willing to provide that to you.

COMMISSIONER SHARPLESS: But the information, the detail that you would be looking for would answer the question of how they would go about aggregating small residential cus- --

MR. NAHIGIAN: Small, yes, yes. Residential and small commercial customers, yes.

COMMISSIONER SHARPLESS: And you don't feel at this point that they've given enough data about how they would go about doing small residential?

MR. NAHIGIAN: I don't think that they've told you that they're going to provide that to anybody but their own internal processes. They're not going to provide that to anyone.

My suggestion is to provide it to an outside source, such as the Energy Commission Staff, and to allow for some other parties that don't have a competitive interest in it to be able to view that, given whatever nondisclosure documents that would have to be signed.

COMMISSIONER SHARPLESS: So provide what? Provide the information or provide a percentage of their megawatt that would be aggregated to somebody to go out? I mean I'm not clear as to what you're saying.

MR. NAHIGIAN: Yeah. And I apologize. I'm not absolutely clear exactly on what the exact data would look like. I'd have to go back to TURN and go back and think about it and see what it is.

My big hurdling block is to get the data over there anyway. I mean I'm not sure that's a hurdle I can jump, or a hurdle that anybody else here in this room is willing to jump.

So to that extent I'm perfectly willing to provide that. I'd very much like to.

COMMISSIONER SHARPLESS: But just devil's advocate, without giving the ability to do it, how would they be able to provide you that information?

MR. NAHIGIAN: Oh, yeah, I don't know. I think that's a very good question. But --

COMMISSIONER SHARPLESS: Oh, okay. Then I do understand, that the proposal is not fully --

MR. NAHIGIAN: No, it's not fully developed. I do apologize for that.

COMMISSIONER SHARPLESS: Okay.

MR. NAHIGIAN: I brought it in at the last moment.

I can provide that. I don't know what the scheduling is here.

COMMISSIONER SHARPLESS: Tomorrow.

MR. NAHIGIAN: Tomorrow. Okay.

COMMISSIONER SHARPLESS: Or the next day.

MR. MUSSETTER: To this gentleman here.

COMMISSIONER ROHY: There is PG&E comments with regard to the gentleman from TURN first, or was that -- and then I'll get with you, Mr. Mussetter.

MR. MUSSETTER: Okay.

MR. MANHEIM: I actually wanted to respond to the assertions about what was the understanding before the Conference Committee about how much this would cost, because there is some evidence on the record on this and I think it's useful to talk about it.

When we were at the --

MR. TANTON: I'm sorry, Mr. Manheim, could you designate the record? Is that the legislative record or is that our record within this proceeding?

MR. MANHEIM: I'm sorry. That's your record in this proceeding. PG&E's filed some work papers as an attachment to its comments.

MR. WILLOUGHBY: Could I interject?

I believe that there is on the legislative record, if you will accept the 52 videotapes that were done of the Conference Committee during the month of August. And I think I was the PG&E witness.

MR. TANTON: If one can detect in those 52 videotapes a singular definition or thrust, we'd be glad to.

MR. WILLOUGHBY: Well, should I explain?

I will explain what I did, and Mr. Boccadoro isn't here right now, but I think he would agree with me that at one point during that marathon -- and I know this is on videotape -- the Conference Committee asked PG&E to indicate the dollar impact of the CTC exemptions that were being contemplated for the irrigation districts generically, under the first category.

And we actually calculated for all three categories. And that calculation was based upon assumptions that are underlying the PG&E proposal that's before you.

But the dollar information that we gave -- and it's been repeated in a memorandum that Dennis Keane has written to Linda Kelly. But the basic information that we gave to the conferees was that basically the generic exemptions would have a cost of about \$61-plus million. The Merced, almost 28, \$29 million. And the JPA exemption another \$35 million.

Those --

MR. TANTON: And that would be just for PG&E or would that be for all three --

MR. WILLOUGHBY: Just for PG&E. Those were -- that was the information that we gave the conferees.

And I guess all I would say is that the conferees decided to go along with the exemptions realizing with -- and the irrigation districts did not contest this assertion on the part of PG&E, but that was the information that the conferees had before them when they actually adopted this section, that this was the dollar impact of the three categories of CTC exemptions that were being contemplated here, at least on PG&E.

Edison said that the impact for them was much less, and it was not something that they were overly concerned about that.

But the conferees wanted to know, "What's the dollar impact of these three categories of CTC exemptions on PG&E?"

That was the dollar figure that PG&E quoted to them. It's on videotape. We repeated it in a memo to Ms. Kelly. That is on the record. That was the record that was before the conferees when they adopted this section. And I just say that by way of background.

MR. MANHEIM: If I can add something, too.

This issue came up at the Workshop in Merced. And at that time Mr. Boccadoro said, "What about that \$125 million number? That's what I remember talking about."

And I believe someone else, perhaps Mr. Mayer from Modesto, said, "Yes. If we could take that \$125 million number and reconstruct it, that would certainly give us some insight about what types of measurement device was used."

And I apologize, Mr. Mayer, if I've misquoted what you said. But we endeavored to do that after the hearing.

One thing I'd like to point out about the work papers is that at the time the \$125 million number was discussed the irrigation district exemptions on the table were 150 megawatts as opposed to the 110 that were ultimately adopted.

So that number doesn't directly lead to an analysis of how much the

110-megawatt program is going to cost.

But it certainly describes the magnitude of the cost of this program that was presented to the Legislature, and also that was presented to the other parties that were going to have to fund this exemption through the firewall. One of them we heard from today. In the industrial class we haven't had any representatives. But they had similar assurances about that.

If you take the other proposals in this case, and when I say "other," I'm speaking more specifically to Fresno and Merced, you multiply those dollar amounts by at least two and a half times and as much as 10 times. And TURN's calculation demonstrates it's somewhere in the middle range of that range.

That is a lot more money than anyone ever suggested to the Legislature these exemptions were going to cost.

MR. TANTON: The 240 figure?

MR. MANHEIM: Yes.

MS. TEN HOPE: Aren't there some other factors, though, that we should have some caution in looking at the work papers? You suggested that the megawatts were 150 when this calculation was done and now they're 110 --

MR. MANHEIM: Yes.

MR. WILLOUGHBY: No. These numbers that are here are for the 110?

MR. MANHEIM: No, it's not.

MS. TEN HOPE: It's 150, at least from what was submitted to us on the 18th?

MR. MANHEIM: Yes.

MS. TEN HOPE: Maybe there are more work papers.

It also -- at that point that these calculations were done, it was not assumed that 50 percent of this would be for agriculture. And --

MR. MANHEIM: That's right. And I think both of those factors would tend to lower the number for the Legislature, not increase it. So, if anything, the Legislature's expectation is these numbers would be lower. And, in fact, why was it decreased? Because other parties believe the 150 --

MR. TANTON: Are we speculating on the minds of the Legislature

now, Mr. Manheim?

MR. MANHEIM: Well, cert- -- the negotiators, in large part, from what I understand this was a negotiation about how much other customers were willing to take, and the 150 was considered to be too much, so it was lowered down.

MR. WILLOUGHBY: Yeah. I mean I was part of that negotiation. And

--

MS. TEN HOPE: But I just wanted to finish a question, which was that the additional assumptions made were that the customers would be the large industrial customers with a fairly large load factor, almost a 50-percent load factor. Then when you put in the requirement that 50 percent of these have to be ag customers, those tend to be lower load factor customers which will bring down the value.

So that in terms of saying that this is the document that was used to base the calculations on how much the CTC exemption was worth, it seems like a lot of factors changed after this was done.

MR. MANHEIM: No. And I'm sorry if I suggested that's what the document was intended to do. The document's intended to demonstrate the basis by which the \$125 million -- which everybody agreed was the number in play -- was developed.

And if you use the other measurement tools proposed by the parties here, you can't solve from the \$125 million. You can't solve backwards. Using PG&E's approach, you can. So that was one way of validating our approach, is being the basis of the understanding and of the deal.

And you're right. If you were to use the assumptions ultimately adopted by the Legislature, the numbers would be much lower. But these proposals increase the cost of the exemptions 2 to 10 times. So I think there is some relevance in the benchmark established by this number.

MR. KEANE: Another way to say that might --

MR. TANTON: Okay. You've commented relative to Merced and Fresno's proposal, in that they would result in some number quite a bit bigger than what the Conference Committee had used.

What about Modesto's proposal? Doesn't that sort of zero in on 125? Disregarding for the time being whether the 125 is the right number or not, but --

MR. KEANE: Under Modesto's it would be higher than 125. I'm not sure -- it's kind of an unusual proposal, and we don't have load factors defined the way that they're proposing it. So I'm not sure exactly how much it would increase it.

But we're here to use the average approach. For something like Merced's that number would be, as Bill said, 2 to 10 times as large, depending on what the --

MR. TANTON: No, I understood that part of the comment.

MR. KEANE: -- mix of customers is.

COMMISSIONER ROHY: I'd like to -- your questions so far?

MR. WILLOUGHBY: Mr. Chairman, could I just add?

I think it is not correct that the ag pumping requirement was added at the last minute.

The ag pumping requirement was a requirement right from the outset. It was contained in one of the bills that were the predecessors to AB 1890. The whole idea that there should be an ag pumping exemption was in there from the very outset.

And the negotiation down from a 150 to 110 megawatts wasn't really done, but between PG&E and the irrigation districts on a split-the-difference basis.

COMMISSIONER ROHY: Mr. Mussetter.

MR. MUSSETTER: Thank you. If the Legislature had wanted to they could have easily capped this with some dollar figure. They did not do so.

Now on the question that this gentleman at the podium raised, he's expressed the fear that the exemptions granted to the agricultural community will somehow be paid for by residential customers. That's not possible.

Does anybody disagree with that statement? It's not -- the language is right here.

MR. NAHIGIAN: I'm sorry. How is it not possible?

MR. MUSSETTER: Well, I'll give you the citations right now.

MR. NAHIGIAN: Yeah, but those are words. What about the physical metering?

MR. MUSSETTER: Well, that's another question. But --

MR. NAHIGIAN: I mean you know that's obviously a technical question that has to be answered.

MR. MUSSETTER: It's not technical. This is the way the law is. It says here, "That a firewall segregating the recovery of the costs of Competition Transition Charge exemptions such that the costs of the charge granted to members of the combined class of residential shall be recovered only from these customers and the costs of the charge granted to members of the combined class of the rest of the customers, other than residential and small commercial shall be recovered only from those customers."

So I think regardless of what this gentleman may persist in thinking, I think that this Commission of course is going to look to the language in the law.

COMMISSIONER SHARPLESS: Can't I, though, somehow -- I think the point is that you're all talking about an aggregate amount, that residential cannot pay any more in CTC than is constructed under the firewall. But the point is that there are going to be in residential in the circle and out of the circle. So --

MR. MUSSETTER: You mean residential in the irrigation districts?

COMMISSIONER SHARPLESS: Residential that receive an exemption will no longer be paying the CTC. Residential that are not exempt will be paying the CTC. Now you work out the math for me.

How is it possible that the people that are not exempt from the CTC, the residential, don't pay a higher amount even though the CTC is no bigger, whether you've got 100 people in it or 50 people.

But if you've got 100 people in it and you take 75 people out, then it just calculates out that the 25 remaining people are going to pay the amount that is allocated to the residential.

So I think that's the point this gentleman is making. Whether I agree with it or not, it just seems to me like, "What are you guys talking about?"

And that, yes, that there is going to be a designated amount of residential

CTC. But the more people that you exempt, the more residential you exempt from paying the CTC, the more the people in the circle are going to have to pay the CTC; or, if they don't, then it becomes a shareholder cost.

MR. MUSSETTER: Well, that's certainly true. But within the residential class, if you take some out the remaining people within that same class have to pick up that difference.

By the same token in the remaining classes, the same thing --

COMMISSIONER SHARPLESS: Right.

MR. MUSSETTER: -- principle would apply.

COMMISSIONER SHARPLESS: Exactly.

MR. MUSSETTER: Nobody can argue that.

But there's not a crossing over, such as this man was implying, and --

MR. NAHIGIAN: I didn't -- I didn't allude to that. I didn't say that.

MR. MUSSETTER: -- and the way I heard him --

COMMISSIONER SHARPLESS: That's not what I heard him say.

MR. NAHIGIAN: I didn't say that. No, I didn't say that.

MR. MUSSETTER: Okay. Good.

MR. NAHIGIAN: I hope nobody else did.

COMMISSIONER ROHY: Any other questions for the gentleman from
TURN?

[No response.]

COMMISSIONER ROHY: Thank you. We appreciate your comments.

Is there a representative of -- why don't we start with Merced? Let's go head and talk about the Merced proposal. You started and I'd like to have you continue and describe your proposal.

MR. KRAUSE: Thank you. I'm Garith Krause from Merced Irrigation District. Perhaps it would be helpful if Linda could put up one of her charts? The demand meter and industrial customer might help illustrate how our proposal works.

MS. KELLY: Is that good enough?

MR. KRAUSE: Yes. Thank you.

We offer a simplified approach to this whole process, which we believe optimizes the use of the exemptions by irrigation districts. In contrast to the PG&E designation of our approach as extreme, we believe it's not extreme. It is a method of approaching this problem.

And basically we would take total kilowatt usage and divide by the megawatt hours to arrive at an average load across every day of the year. And our approach is a usage approach. It corresponds to the exact amount of Competitive Transition Charges that would be paid.

So, for example, in that example on the board up there, with a 10-megawatt peak demand customer, as rated by PG&E and the Staff, the Competitive Transition Charges that ultimately would be accounted for by Pacific Gas & Electric and put into their CTC account would be the five megawatts that we're using as our allocation exemption.

And so our approach is the only one that matches the Competitive Transition Charge to balancing accounts that the investor-owned utilities have to keep track of.

We believe that this is a simple way of handling the problem. It takes one calculation per year to determine whether or not that customer has exceeded the allocated amount. And that at the end of the year you tally up the total kilowatts used and come up with your demand, your load factor, average usage factor. And if it exceeds the exemption that we've allocated to that customer, then there's Competitive Transition Charges owed for that account.

We would identify the customers within the power process, and allocate specific amounts to those customers. This approach would allow us to solicit a wide variety of customers in that we're not forced to look for high load factor customers. We can in this approach go after residential accounts and serve them as equitably as large industrial or agricultural accounts. And we believe that this method is one of the best approaches that is available, and the simplest.

The discussion we had on the Fresno approach, we recognize there are some difficulties there in reviewing all the interpretations. But this particular approach avoids all those issues and questions.

Questions?

COMMISSIONER ROHY: I may have missed it, but are you going to identify each individual customer then under your proposal?

MR. KRAUSE: Yes. Under our proposal we would identify specific customers. And I think that this gives me an opportunity to make a comment regarding the Pacific Gas & Electric CPUC proposal on customer notification.

And as an irrigation district getting into this business, we'd have to look at this from a total standpoint as opposed to one-hearing-at-a-time standpoint, because everything affects us, the CPUC and this Commission.

Pacific Gas & Electric has proposed at the CPUC an eight-page notification procedure that every customer, departing customer including those that become customers of irrigation districts, would have to contend with. Identifying the customer, their exempt load, and make an application to PG&E. And they determine whether or not this customer is eligible for exemption, how much, gives a time series of compliance.

PG&E has an opportunity to deny the exemption, at which the time the customer has to make an application or a formal application to the CPUC to contend with the denial.

They have to sign a contract with PG&E wherein they promise to pay future CTCs, so on and so forth. Eight pages of detail that customers would have to work through.

And that process, I think, if implemented by the CPUC, would be the process that would be used by all irrigation districts to identify customers.

There wouldn't be a question any more as to whether or not Fresno or Modesto had customers aggregated or sharing partial loads, they would have been identified in the prenotification process that PG&E is asking for.

My point in bringing this up is that should you chose to adopt the Pacific Gas & Electric approach to identifying or awarding exemption amounts and the CPUC does not not- -- or modify the notification process, the ability of irrigation districts to implement electric services under those two provisions would be severely restricted.

A very anticompetitive approach to working with the irrigation districts in implementing the programs.

But in any event, we will identify customers.

MR. MANHEIM: Can I just ask?

Can you explain why it would be difficult to reconcile the PG&E proposal with our departing load notification procedure?

MR. KRAUSE: Well, it just seems to me in going over the procedure, that is -- especially sophisticated customers, and we have a very large number right now -- Foster Farms probably wouldn't have any difficulty working through that process.

Smaller customers would probably be intimidated by the process of going through this. There aren't many small customers that have ever made an application or a request of formal hearing to the CPUC.

Just from the standpoint of being asked to sign a contract and pay future CTCs if they're owed at some point in the future is going to scare off a lot of customers who may say, "Hey, it's not worth it. I'm not going to switch no matter what your price is, because I don't want to take the chance."

And they're being asked, the customers are being asked to sign a contract with PG&E for obligations that aren't yet determined.

MR. WILLOUGHBY: Well, do you have some other way in which when a customer leaves, that they would be obligated to pay whatever they might rightfully owe?

MR. KRAUSE: We're perfectly willing to notify PG&E's departing customers, and don't necessarily disagree with the aspect of notification. But we believe the problem resides in the complexity of the process that PG&E has proposed.

Merced did propose at the CPUC that we swap the process of notification and the requirement to pursue the issue and put the onus on PG&E. If they have a problem with what we propose is the exemption, they can make an application to the CPUC to --

COMMISSIONER ROHY: May I ask how that affects the CEC allocation

of megawatts?

I understand it's a very significant issue and I think it will be heard at the CPUC. But if it doesn't affect this process I'd like to delay that discussion.

MR. KRAUSE: My only point here is that when we bundle these obligations and processes together, one on one, and there will be many of them that together, if they're too complex, too onerous, it will inhibit of the irrigations to function in this environment and to actually provide service.

COMMISSIONER ROHY: Okay.

HEARING OFFICER FAY: Mr. Krause, regardless of the equities of your approach versus some of the other ones, if what we heard is accurate in terms of the estimate of cost shifting that was being considered by the conferees in writing the Bill, if your approach is in this order of magnitude different from the assumed amount of cost shifting, how can this Commission be comfortable with taking your approach if it runs the risk of awarding much greater cost shifting than perhaps was intended in the Bill?

MR. KRAUSE: Well, I can only speak for Merced, but I don't believe that there's an extraordinary amount of cost shifting involved here.

And in my personal opinion, representing Merced, is that it's very difficult for Merced to actually build and provide facilities over a five-year time period that will allow us to exceed the allocations that we're talking about in any great degree of excess.

I mean there are physical limits on how much you can do each year. And since we're talking about building facilities in Merced, the construction process, the environmental review process, all of those activities associated with our expanding system tend to hold back the amount of power we're actually able to provide in any given year.

We're able to actually build a line through Atwater and then down to Merced, that's probably a two-year process. It takes time to acquire customers and hook them up.

And there are physical limits on how much you can actually do or expand this process. So we don't -- plus in our area, we're looking at the addition of

a lot of new customers, which will count against this allocation. So if that takes some of our time and effort as well.

We're going to have somewhere around 16 or \$17 million worth of revenue this year in our district compared to a \$9 billion revenue base for Pacific Gas & Electric. Just contrasting those two economic bases, you can see that we're somewhat down in the amount of resources we're able to apply to this process.

So it's not as though we're just able to go out and slam dunk 75 megawatts into position. It's difficult.

HEARING OFFICER FAY: So if other districts are in a similar situation do you think that the estimates offered by PG&E, in turn, are too high in terms of the multiplier of --

MR. KRAUSE: I think that the process devised by Pacific Gas & Electric is limiting and causes too many artificial restrictions on irrigation districts' operations.

But I believe that the numbers provided by TURN and to some extent by PG&E may be a little bit high.

Certainly TURN's are completely out of the question. There's no way that the irrigation districts could do what TURN is suggesting. It's possible we might come close or exceed slightly the PG&E estimates. But I would think it would be materially in excess of that.

HEARING OFFICER FAY: Okay. Thank you. That's all I have.

MR. KRAUSE: I might also point out, just as you go through this by your time, please, you'll recall that all of these exemptions end over a five-year time period, 20 percent each year roughly.

As you get closer to the end of that transition period it's probably going to be less likely that you're going to be able to convince customers to make the change because of the economics of making that change become less as you go towards the end of that transition period.

So if you take all of that into account, the possibility of us exceeding the numbers or even coming close to the TURN numbers are significantly -- or the PG&E numbers -- are probably not there.

COMMISSIONER ROHY: Any other comments on the Merced proposal?

Yes, Jim.

MR. HOFFSIS: You mentioned a couple of times here today, and Mr. Davie did too, that proposals like PG&E's are those that would argue for peak megawatts, would force you or drive the irrigation districts into serving or seeking only high load factor customers.

And my question is: There isn't anything in the law or anything that we at the Commission are doing in this process that requires any such thing, is there?

Isn't that solely at the discretion -- or the irrigation districts' choice of what customers to seek or to serve?

MR. KRAUSE: And that's correct. The economics of that, however, are -- for example, in Merced's case we're building facilities. And in order to pay for those facilities, it will be easier for us to do that with, say, a 60 or 70 percent load factor customer as opposed to a 30 percent load factor customer.

So to the extent that we build facilities and we're limited by the most -- the peak megawatt measurement approach, and in order to pay for those facilities, we're going to orient our approach to high load factor customers, which will be to the detriment of serving a wider base of customers in the community.

MR. HOFFSIS: I understand the economics of it.

The only point is there isn't anything specifically happening here that forces that. That is a choice that the irrigation district can make if they, within the economics, can serve or give that benefit solely to residential customers, so much the better.

MR. DAVIE: If I can -- Doug Davie.

There is a proviso in the legislation that talks about the Energy Commission's decision ensuring the best possible usage of that. And if -- therefore if you're faced with a decision of an allocation that's going to use it on a ten-percent load factor versus an allocation that will use it on a 50-percent load factor, the legislation implies you want the best usage.

So it says the higher load factor is, in fact, the preferred customers for

achieving the higher load factor.

MR. TANTON: Does the legislation say that the higher load factor is preferred or that we make the best use of the allocation?

MR. DAVIE: It said you ensure the best usage of the exemptions --

MR. WILLOUGHBY: I believe that's incorrect.

MR. TANTON: Okay. And it's your interpretation that a higher load factor is better than a lower load factor; is that correct?

MR. DAVIE: Absolutely correct.

MS. TEN HOPE: Can you reference us to the section of the statute?

MR. DAVIE: It's in Section 3741(c), the last sentence of that.

MR. WILLOUGHBY: And I guess I would dispute Mr. Davie's allocation.

I think the plain words say that the Commission shall distribute this in a manner that, "Best ensures its usage within the allocation period." And I think that's very important.

I read this to mean that the allocations by this Commission shall be made in a way that maximizes its usage within the five-year period, so that it's all used up within the five-year period. I don't think that that talks about the kinds of things that Mr. Davie has been talking about.

MR. KRAUSE: But I don't think that that -- that part of the legislation also provides the concept that you should limit the exemptions. If we're going to best ensure usage, I don't think that the approach should be to limit them to the maximum.

MR. WILLOUGHBY: Well, I would certainly agree that it leaves great discretion with this Commission as to what allocation process maximizes the chances that the entire 110 megawatts will be used up at the end of the five-year period. I think that's what these words say.

MR. MANHEIM: If I could reflect a little bit about the customers who will benefit probably from these exemptions?

Mr. Krause, I think, acknowledged that. Since he's going to have to build a distribution system, he is going to target those customers that are biggest and

have the highest load factor at first because he wants to minimize his capital costs for building a distribution system.

So I think that -- and ultimately what his proposal is, and if his proposal were to be granted, the first investments you would see would still be to the big high load factor customers. In fact, that's what Merced's business plan suggests.

If you were to grant their proposal, though, to give them a whole bunch of exemptions, much more so than would be available under PG&E's position, then ultimately they'll have to build out to other customers because they'll build up all the desirable ones first.

And I guess the argument is the spillover allows ultimately to trickle down, that there will be no desirable customers left so residential customers might get some.

But I don't -- every irrigation district will have the incentive of serving first high load factor, large customers. That's what will happen. And the incentives are the same under every party's proposal here.

MR. TANTON: Right. And you want to keep the high load factor customers as well, right?

MR. MANHEIM: Yes, I think we do. But I don't believe that our proposal --

[Laughter.]

MR. MANHEIM: -- our proposal is not designed in any way that would push the irrigation districts away from those customers. We're not trying to protect those customers.

MR. KEANE: They'll still go after them, even under our proposal.

MR. MANHEIM: Through our proposal.

MR. KEANE: Just minimize them.

MR. TANTON: Just out of curiosity, in this Bill, in the Code now, when it talks about the CTC itself it refers to a usage-based fee.

During the discussions was there any discussion in reconciling the apparent discontinuity between a usage-based CTC and a demand type of exemption, where the two are sort of incongruous?

MR. MANHEIM: One thing I'd like to point out is in the specific irrigation district's section, the usage charge for CTC is described elsewhere. It's not in the exemption section.

In the exemption section the term repeatedly used is "a 110 megawatts of the load." And that -- yeah. So the usage concept is not part of the irrigation district --

MR. TANTON: No, I understand that.

What I was trying to figure out is if there was any awareness on the Conference Committee's part that they were using a terminology in one place that is incongruous with the terminology used in another place, or at least the concepts used in two places.

MR. WILLOUGHBY: As a person who was present through what is euphemistically called the Steve Peace death march for -- you know, I have a t-shirt to prove that -- that I think the short answer is no.

MR. TANTON: Thank you.

MR. WILLOUGHBY: I think -- just to add to that, I think that the great emphasis was laid on the usage base, that this would be a charge per kilowatt hour.

There was some discussion on that point, because the people wanted to make sure that if you used less, if you used fewer kilowatt hours, that your CTC obligation would be commensurately yes.

So there was discussion on usage base. There certainly was not discussion on what the other aspect that you feel is --

MR. TANTON: Okay.

MR. WILLOUGHBY: -- where there is some incongruity.

But I will say to you that there was a good deal of discussion on the fact that CTC should be usage based.

MR. TANTON: Okay. So consistent with the concept that those who use less should pay less, shouldn't those who use less also benefit less from an exemption; wouldn't that be consistent?

MR. WILLOUGHBY: I am not following that.

MR. TANTON: Okay. That's all right.

COMMISSIONER ROHY: Mr. Krause.

MR. KRAUSE: Yes. I'd just like to respond to Mr. Manheim's review of the Merced business plan.

The first step out from the Pioneer Substation located in Livingston is to provide service into the City of Livingston primarily to small commercial and residential customers.

So we are going to be -- we can serve in the City of Livingston fairly quickly. We have a variety of customers including commercial, schools, city facilities such as water wells and things of that type.

And much later than that, some time in '97, we'll be looking to run lines to Atwater and Merced to catch some of the other kinds of customers, large industrial.

But our first step was to serve those nearby.

COMMISSIONER ROHY: Am I correct in assuming that whatever this Commission decides for allocation of the CTC exemptions, you are free to expand your business. Now you would have some basic opportunities that would be more if you had a bigger exemption than a smaller one, but you are free to go ahead into the electricity business; is that correct?

MR. KRAUSE: That's correct. We can serve any number of customers over and above the exemption allocation. Those customers would be subject to the Competitive Transition Fee.

We can serve new customers that come into our area that have not been a prior customer of PG&E without having that assessed to us on our exemption load per exemption allocation.

COMMISSIONER ROHY: Thank you. You had a comment, Mr. Willoughby?

MR. WILLOUGHBY: Could I just get back to Mr. Tanton. I'm disturbed that I didn't really answer your question about benefit.

And I guess all I can comment on this is I don't recall any discussion about benefit ever occurring conceptually, in terms of -- in the context of the legislative discussion, the Conference Committee discussions.

The context, as I recall, was always that the CTC was a charge to help pay for the stranded assets and just a question of how you allocated that charge in a fair and equitable manner. And I don't recall any discussion at all of a "benefit aspect" to this issue at all.

MR. TANTON: Okay. So the avoidance of having to pay the CTC, which is what the subject of the exemptions are, it was not considered a benefit during those discussions?

MR. WILLOUGHBY: I think -- if you look at the very first paragraph of Section 374, it talks about in recognition of the statutory authority, basically of irrigation districts to serve outside their territory. In recognition of this we're going to set aside --

MR. TANTON: In recognition of past investments, correct?

MR. WILLOUGHBY: Well, yeah. Past investments that irrigation districts in general may have made based on their longstanding statutory authority to serve outside the district boundaries, we're going to set aside this 110 megawatts of CTC exemption. It wasn't really a case of benefit; it was just a case, I think, more of equity.

MR. TANTON: So avoiding a cost was not considered a benefit? If that's your recollection, that's fine. I'm just trying to make sure I understand.

MR. WILLOUGHBY: No, that is my recollection. That, again, the idea was that irrigation districts in general had invested in facilities, had made capital investments that would allow them to serve customers outside their territorial boundaries. And to give them a CTC exemption would be a recognition of that investment.

MR. TANTON: Even though the exemptions we're talking about are within the boundaries, not outside the boundaries?

MR. WILLOUGHBY: Even though the --

MR. TANTON: Even though the exemptions we're talking about are inside the boundaries of the districts, not outside the boundaries of the district?

MR. WILLOUGHBY: We're talking about --

MR. TANTON: You mentioned, Tom, that --

MR. WILLOUGHBY: Yes.

MR. TANTON: -- it was in recognition of past investments made to serve customers outside their --

MR. WILLOUGHBY: I'm sorry. And I think that's an error. It was in recognition of investments made to serve --

MR. TANTON: Customers within the boundaries.

MR. WILLOUGHBY: -- within the boundaries, but were basically PG&E customers they could have served.

COMMISSIONER ROHY: Okay. I'd like to ask if there's a representative from Modesto still with us here?

Could you, before the day runs out, I'd like to hear your story.

MR. KIMBALL: Okay. We'll tell you our story. My name's Tom Kimball and I'm with the Modesto Irrigation District.

Obviously as an irrigation district we would like to see as large of an exemption as possible, as I think most of us would.

However, I think you're seeing, at least from all of these proposals, you're seeing extremes on both ends. You're seeing a hundred-percent load factor proposals and you're seeing the opposite end also.

Modesto, as we evaluated this, even though this probably isn't our most preferred, we thought it would be a way to still address the issue of defining megawatts, but do it in a manner such that it kind of hits the middle of the road and provides some sort of a load factor adjustment that's probably more within the range of I think what most people would consider, particularly as it relates to point-of-generation facilities and things of this nature.

So basically what we've done is we've just said, "Well, we bill our customers each month." They get a demand bill, they get an energy bill. Sometimes they don't use any, sometimes they use a lot.

And so we essentially took over a 12-month period whatever those demands were. We divided them by 12 and took an average, and said that's the demand for CTC exemption purposes.

I think the CPUC Staff has done something similarly, except they've

done it on a yearly basis. They've taken three previous years and done an average basically to determine average demand.

I think Modesto took it one step farther and looked at it on a monthly basis. I think you could take it another step further and look at it on a daily basis.

And so that's basically what our proposal was, is this is just a method to provide some load factor adjustment to the process so that you're not at one extreme or the other.

MR. TANTON: Just out of curiosity, do you ever buy from BPA or any federal preference power agency?

MR. KIMBALL: I do believe we buy from BPA, yes.

MR. TANTON: Okay. When they allocate their megawatts, the preference power, and they've got, say, a hundred megawatts to allocate, how do they do it?

Do they give a hundred megawatts once or do they say a hundred megawatts this month goes to party XYZ and a hundred megawatts in another month goes to somebody else?

How do they allocate those average megawatts?

MR. KIMBALL: They allocate it based on what you request. They don't ask you which customer necessarily it's going to --

MR. TANTON: Suppose they don't have enough. Suppose they've only got a hundred megawatts and somebody wants a hundred megawatts January through March and somebody else wants a hundred megawatts May through December?

MR. KIMBALL: Then you may purchase the megawatts for the months that you're interested in, purchase it somewhere else for another.

MR. TANTON: Kind of like your proposal?

MR. KIMBALL: Yeah.

MR. TANTON: Okay.

COMMISSIONER ROHY: May I ask, are you -- just so I can consistently ask everyone the same questions, in your proposal do you identify specific customers?

MR. KIMBALL: In our proposal it is identified to specific customers. However, we feel that each irrigation district should have the ability to chose how those allocations are going to take place.

And from our perspective, if Fresno or anyone else can devise a method whereby the allocations can be done and done consistently with the intent of the Bill, we think that that should be available.

COMMISSIONER ROHY: PG&E, questions on Modesto -- don't go away.

MR. KIMBALL: Okay.

COMMISSIONER ROHY: We're almost done.

MR. MANHEIM: Tom, if I could just ask one question.

MR. KIMBALL: Sure.

MR. MANHEIM: How would the 50-percent agricultural purposes requirement be meet, the satisfaction of that be measured?

MR. KIMBALL: Exactly the way any load would. You go ahead and add up what the average demands were per month, divide it and get an average demand. And that would be the demand for that load.

COMMISSIONER ROHY: So you're consistent on the ag load versus the total load --

MR. KIMBALL: We would be consistent on the ag load with all the other loads.

MR. TANTON: In terms of how you measure it?

MR. KIMBALL: Yes.

MR. MANHEIM: You're not concerned that that might dampen the -- my assumption is that ag load only peaks during a few months out of the year, and if you average it over 12, won't that dampen the availability for meeting the 50 percent requirement?

MR. KIMBALL: It potentially could. Once again, it comes back to the definition of what pumping for ag purposes is.

And I would just like to clarify our -- you know, our position on that also. We don't necessarily agree with some of the positions that have been stated

here, meaning that it has to follow either a PG&E or a Southern Cal Edison ag rate to be considered pumping for ag purposes.

From our perspective, regardless of what the load is, if it is has a pumping commodity that's ag related, even if it's only 25 percent of their total load, then that should be able to be sectioned out, identified and receive a CTC credit in conjunction with the term "pumping for ag purposes."

And so we would prefer to broaden that thing out so anybody that has pumping for ag purposes, whether they're part of the PG&E tariff or the Southern Cal Edison tariff, that that should be considered qualifying load to meet that part of AB 1890.

MR. TANTON: But that would have to be separately metered, he asked with a question?

MR. KIMBALL: I don't think it would necessarily have to be separately metered. If you went in and actually identified what that pumping load was and maybe took it as a percentage of the overall total load for accounting purposes, I think that could be done also.

In fact, I think one of the proposals that was identified in the Staff report does some similar things, as you go into identify any ag customer that has pumping load that you're trying to identify independently of a total system operation.

MR. TANTON: I'm sorry. Rather than separately metered it may have to be separately billed, or at least separately accounted?

MR. KIMBALL: I don't necessarily think it has to be separately accounted for or separately billed. I think the person that's actually doing the survey of the load can identify it and document it. And if he's able to do that, then it ought to count.

COMMISSIONER ROHY: Now is this a one-time survey, similar to what PG&E is suggesting, as I understand it, --

MR. KIMBALL: Yes.

COMMISSIONER ROHY: -- and that thereafter you just make assumptions that that is the percentage of the load?

MR. KIMBALL: Right. You do a one-time shot. You give the

exemption, and you're done.

COMMISSIONER ROHY: Is that my understanding -- is my understanding of the PG&E proposal correct in that respect, that it's a one-time estimate?

MR. MANHEIM: Yes.

COMMISSIONER ROHY: And thereafter those individual accounts have been identified are CTC free?

MR. KIMBALL: That's correct.

COMMISSIONER ROHY: And that's a common thread then between yours and PG&E's?

MR. KIMBALL: Yes.

COMMISSIONER ROHY: I'm just trying to sort out all the pieces.

MS. TEN HOPE: I just want to make sure that I understand this versus Staff's proposal.

If I understand Staff's proposal correctly, you have to meet two criteria. You have to be eligible for an ag rate and then that customer has to have pumping load.

And you're proposing that this not be two criteria, that you can be any customer. You can be an industrial customer not eligible for an ag rate, but if you have some pumping --

MR. KIMBALL: Sure. In the definition of pumping, if it's for ag purposes, even if it's only a portion of a load that's metered, if you can identify it and document it, it should be considered. And that's --

COMMISSIONER ROHY: How far would you define agricultural pumping?

MR. KIMBALL: Well, we have customers, for example, that the majority of their process for agricultural purposes is refrigeration. I think refrigeration is definitely something. I think all of these --

COMMISSIONER ROHY: Excuse me. Is that freon pumping?

MR. KIMBALL: Sure, freon pumping.

I think all of these items that have been identified here today as part of

the discussion. I think the whole aspect should be broadened as far as it can be as it relates to the definition of ag pumping. If it pumps a gas, a liquid or whatever it pumps, it's a pump. And if it's for ag purposes it should be counted.

MR. TANTON: How would you delimit the phrase "agricultural pumping"?

MR. KIMBALL: Any pump --

MR. TANTON: Or "agricultural purposes," excuse me.

MR. KIMBALL: Any pump that operates to do agricultural activities or things.

MR. TANTON: Okay. But how do we decide whether something is, in fact, agricultural related or not?

Would that be the IRS form they file and the SIC code they designate on their Schedule F? Or what is it?

How do we decide that?

MR. KIMBALL: Well, I think from a broad definition perspective, I think if you're growing it, if you're pumping water for it, if it has to do with the basic definition of what agricultural is, it should be counted. It should be as broad as possible.

And, you know, if the IRS is out planting trees as part of their process and it's considered an ag commodity and they've got pumps that work their facilities, it should be counted as ag pumping.

MR. TANTON: Okay.

COMMISSIONER ROHY: Let me understand something for a moment with Staff's proposal then, and I may have misunderstood Staff's.

When you say here you average three previous years, you average the annual number as opposed to Modesto averaging the monthly number; is that a correct --

MR. KIMBALL: That's correct.

COMMISSIONER ROHY: Okay. I'm trying to get my understandings here correct.

Further questions on Modesto, or comments?

Laurie.

MS. TEN HOPE: Well, I just wanted to ask a question about each of the proposals addresses nondemand metered accounts. Because -- and see whether there's the same differences or similarities between nondemand metered accounts, or whether that's even a problem.

Are we realistically going to see applications that are addressing nondemand metered accounts?

MR. KIMBALL: I think as what -- and, Ed, you can correct me if I'm wrong -- I think from a nondemand metered perspective our intent was basically to do something similar. To basically take the kilowatt hours, convert them over to some average kilowatt basis and do a similar averaging. And that would be what we would utilize for the CTC exemption from a demand perspective.

MR. TANTON: And that would be done for each month of the year?

MR. KIMBALL: Yes.

COMMISSIONER ROHY: So again, one time?

MR. KIMBALL: One time. The previous 12 months.

MS. TEN HOPE: Do you include a load factor in coming up with your demand?

I mean the Merced proposal would have no load factor whether it was a demand customer or a nondemand customer, correct?

COMMISSIONER ROHY: Mr. Krause?

MR. KRAUSE: That's correct.

But the -- for the residential customer, for example, we would identify. There would have to be some exemption credit that would be defined for that residential customer.

And if we don't have demand meters for those customers, I would expect that we would work closely with PG&E to come up with a class average or something that would be acceptable to the parties.

So if we identified residential customer, then there would be an exemption amount that would be allocated for that residential customer acceptable to PG&E and for us. And --

MS. TEN HOPE: A class average on kilowatt hour usage?

MR. KRAUSE: Residential customers, sure. In terms of defining an allocation amount and a demand factor.

MS. TEN HOPE: I guess I'm confused then how your proposal would have a demand factor, because I thought it was totally a kilowatt hour method divided by --

MR. KRAUSE: You're going to --

MS. TEN HOPE: -- the hours in the year?

MS. KELLY: -- identify those customers ahead of time, and you're right. On a residential customer we could just go back to the prior year's history and come up with that number exactly for each customer.

MS. TEN HOPE: Because you have no demand or load factor for --

MR. KRAUSE: That's correct. Yeah, that's correct.

MS. TEN HOPE: -- any of your customer -- any customer.

And then -- I mean Modesto and Staff's proposal is the same for nondemand -- nondemand metered customers, right? Where you would take the annual usage divided by the number of hours in the year times an average load factor? Or am I getting confused here between the two? I thought they were the same.

MR. MANHEIM: I think the main difference is that PG&E would do it for one month of the year and Modesto would develop a load factor for each month of the year and would have 12 different numbers for a nonmetered customer.

MR. KIMBALL: And then average those.

MR. MANHEIM: Right.

MR. KEANE: Let me try to clarify.

We would use an annual load factor. So we would take annual usage divided by 8760, divided by their annual load factor. And that will produce an estimate of the maximum demand for the entire year.

I think what Modesto, like Bill said, they would do something similar, I guess, for every month, get 12 different monthly maximums and then take a simple average of those 12.

So you would need the monthly load factors, I guess, --

MR. KIMBALL: Yes, you'd have to know it on a monthly basis.

MR. KEANE: -- to implement it.

COMMISSIONER ROHY: Thank you very much.

HEARING OFFICER FAY: We'd like to ask if any other districts or groups would like to comment on the draft application or ask any questions about how it might work?

[No response.]

HEARING OFFICER FAY: Okay. I see no indication that anybody else wants to speak.

Keeping in mind that PG&E has made comments right along, I'd like to offer you a chance to wrap up with any overall comments you might have, although we have heard from you as we went.

COMMISSIONER ROHY: I think he's telling you to keep it short.

HEARING OFFICER FAY: Yes, in other words.

MR. MANHEIM: I think as an initial matter I'd like to say that we think Staff's approach is acceptable, and PG&E would be willing to go with, through your averaging, with one proviso. And that is if in the last year there is a change in load attributable to something tangible, like they shut down part of their plant or there's a new addition, then it might not be appropriate to use a three-year averaging.

And so if you have a verifiable change in load in that last year, then we think you ought to use the last year data because -- and that works in both directions.

I think it adds a little bit of complication to exactly how this plan would be administered. But I think that there are benefits to the three-year averaging proposal that we do need to take into account there may be changes in load that are permanent, that the factory shuts down half of its process. Then that load is reflected in the last year. Then that's really what you should be using for determining how much of a CTC allocation is appropriate.

HEARING OFFICER FAY: And your proviso would only be regarding permanent changes, right?

I mean the fact that somebody had a wild fluctuation over the three years doesn't concern you, just if they went out of business?

MR. MANHEIM: Well, no. If they built -- if they expanded their factory or if they shut down part of the process, those -- but I agree. Yes, it should be permanent.

HEARING OFFICER FAY: But not the normal vicissitudes of agricultural where you might have a drought year?

MR. MANHEIM: Right. And that's what the three-year approach captures, I think.

HEARING OFFICER FAY: Right.

MR. MANHEIM: And that's reasonable.

COMMISSIONER ROHY: May I ask if the three years worth of data are available on all customers?

MR. KEANE: I'm not sure.

COMMISSIONER ROHY: I mean this is a very mechanical question.

MR. MANHEIM: We're squirming.

COMMISSIONER ROHY: If we propose three years of data I'd like to know whether it exists.

MR. KEANE: I believe so.

COMMISSIONER ROHY: Was that a qualified yes?

MR. KEANE: Well, I can check. I think we do, yeah.

MR. MANHEIM: So let's assume yes. Then if it's not, we'll call Linda tomorrow, --

HEARING OFFICER FAY: Thank you.

MR. MANHEIM: -- if that's okay.

The other, I think, point from today's discussion that's important to recognize is the 50 percent agricultural purposes requirement. It's important that that be applied consistently. And that's something that Modesto is willing to do, and we think that's great.

But I think that the fact that Merced and Fresno are very uncomfortable measuring kilowatts consistently for these dual purposes demonstrates some of the

problems with their proposal.

As a general matter, our proposal will be very simple to administer. The measure of a customer's maximum demand is readily available based on historic data, hopefully for three years as well as for one.

We will, once allocation has been made, it will be a fairly simple process to identify the allocation to a customer. And for firewall purposes then, for us to use the historic reference period usage to track what that customer's contribution would have been to CTCs for firewall purposes. So it will be very simple.

For those new irrigation district customers who won't be CTC exempt, they will have an option of paying their CTC to us on a metered basis or on a reference period, historical usage basis. And for those customers who chose to pay on a metered basis, they'll pay their CTCs on a usage basis.

Our expectation is, though, for those exempt customers, there won't be any need to use metered data because they're exempt.

So I can't imagine why an irrigation district or a customer would want to have its data metered on an ongoing basis and reported to PG&E when the only purpose of that would be to refine firewall tracking.

So our expectation is we'll continue to use the historic reference period usage for firewall purposes. So that really does make for a fairly simple calculation during the five-year period.

I could go off into a long discussion of our concerns about some of the other proposals, but I think we've made those points today.

So it is a very simple proposal, and we think it's very consistent with both the deal before the Legislature about how much the was going to cost and the language of the legislation.

Thank you.

HEARING OFFICER FAY: Thank you.

Any other comments to the Committee before we adjourn today? Mr. Mussetter.

MR. MUSSETTER: It was never made clear to me, Mr. Manheim keeps asserting that it's important to be consistent between the ag loads and the method of

calculating the other loads, but he never said why.

I don't think it necessarily has to be. But I don't understand it.

HEARING OFFICER FAY: We'd like to just remind everybody that the Committee's plan is to get the application forms out as close to December 12th as possible.

COMMISSIONER ROHY: May I make just a small correction there. They will not be in form. They will be in the --

HEARING OFFICER FAY: In the application.

COMMISSIONER ROHY: -- in the application instructions or -- not a form.

HEARING OFFICER FAY: Right. Thank you.

And I believe Linda Kelly mentioned that the Staff will continue to be available to answer questions as details come up while people are preparing their applications.

MR. WILLOUGHBY: Can I ask just a clarifying question?

The next -- I guess the next official piece of paper we will see is the official application form. Will the Committee make their decisions by meeting among themselves and then saying, "Okay. This is our decision. Staff, please embody this decision in a final application form," and then presumably on the 12th that form will be released?

COMMISSIONER ROHY: That is my assumption at this point, without consulting counsel.

HEARING OFFICER FAY: Yeah. And I guess I'd phrase it a little differently, that the Committee will issue the application.

Conceptually, this was a draft prepared by the Staff --

MR. WILLOUGHBY: I'm sorry. That's what I meant. I mean that somehow the Committee was going to meet and make a final decision on the --

HEARING OFFICER FAY: Right, right.

MR. WILLOUGHBY: -- content of the application form, that there would be no further public meetings.

But that once the Committee had decided then the next step would be

the appearance of the Committee-approved application form.

HEARING OFFICER FAY: Right. And the next step after that is the filing of those forms by the parties no later than January 31st.

And, conceptually, once the applications are filed, the Committee intends to conduct the process as an adjudicatory process. The ex parte rules will apply, so the Staff, I understand, will be a party, a separate party, and -- as will all the other participants, cannot communicate with the Committee off the record.

And to the extent that matters have to be adjudicated, there will probably be something akin to a prehearing conference after the applications have been served on the Commission and all parties.

And there may be some clearly identified issues at that point. If there are, the Committee may give notice of hearings, adjudicatory hearings to sort those out.

MR. MUSSETTER: When did you say ex parte takes place, January 31st?

HEARING OFFICER FAY: When the applications come in, yes.

MR. MUSSETTER: Okay. Now we haven't really gotten together on this, but I don't think from my perspective that you need to be in quite such a big hurry as to do this on this Thursday, the 12th. What's the big rush? You know, we're at a disadvantage here. Do you acknowledge that or do I need to explain it?

HEARING OFFICER FAY: Well, no. The rush for the Committee -- it seems to me the Committee is at a disadvantage in trying to get this out. The idea was to give the parties plenty of time to be able to prepare their application.

Now to the extent that the application that the Committee issues doesn't change a great deal from what the draft was, I suppose you've been on notice as to what to prepare. But the idea was to give -- especially with the holidays coming up -- to give as much time as possible to the participants so that they could prepare the applications as best they can.

MR. MUSSETTER: Yes. All right. There's merit to that, all right. I grant that.

But here you are. You're going to freeze these terms in stone. And there will be no way to further discuss, debate, change your mind, however you

want to look at it.

HEARING OFFICER FAY: There's some language by --

COMMISSIONER ROHY: I think I would refer to you, especially on -- I'm looking at page 5, the second paragraph in, "If an applicant employs a different approach to estimate pumping load, fully describes and documents the methodology used," I think we've tried to put flexibility, Staff has, in these.

Should alternate calculations methods be used, though, I would use one of Mr. Tanton's terms, we need a Rosetta Stone bringing us back to one type of measuring, because when the day is done we built a brick wall with square bricks, and if some are round and some are triangles, we're going to have a difficult time.

So we don't -- we give you flexibility, but we'd like to understand your approach if -- and that's -- I think to the extent, the greatest extent possible, the Committee has attempted with Staff to build flexibility into here.

But still knowing that at the end of the day, we have to come up and justify a 110 megawatts in some way. So that they have to be -- one methodology has to relate to a second methodology.

MR. MUSSETTER: Well, if that's -- my primary concern is the thing that's taken up almost of the time today, and that's this measurement issue.

And you're saying that you're going to make that decision and pass that milestone this week. And I'm not satisfied that, on the basis of what I've heard come out of all the parties today, that that produces -- is proper to lay that to rest based on what's transpired here.

I would think that if we could have another week or something in that nature to further develop the submittals, the concepts, to have a chance to rebut or reply to some of the things that have been said here by PG&E, that we might have a chance to come up with a better result.

MR. MOUNT: Is it possible that we could delay every other issue but this issue of converting a megawatt into a kilowatt hour?

You know, proceed with the rest of the application and make a decision on the 12th? And then delay some sort of final decision until we have a little bit more opportunity, perhaps to respond or to make an attempt to refute some of the

arguments that have been made PG&E as to some of the methodologies that we're talking about?

MR. MANHEIM: The parties have been aware of our position since September.

MR. WILLOUGHBY: Yeah. I don't know where to cut this off because I think certainly if the irrigation districts --

MR. MOUNT: We can cut it off at the 31st of January.

MR. WILLOUGHBY: -- raised some additional points that -- with which we disagree, I'm sure we would ask for the opportunity to register our disagreement and to explain why it is we disagree and why we think that we're correct and --

MR. MOUNT: I'm having a hard time believing that PG&E has a concern about the cutoff date. They've got more than the adequate staff to work on this issue. And I don't see how it hurts them at all to delay this issue.

I don't think it needs to be made truly until the first kilowatt hour of energy is consumed from PG&E's standpoint. And to that extent, that decision could be delayed until that point.

But I'm suggesting that this particular issue could be delayed a couple of weeks without delaying the presentation of the application form to the irrigation districts, so that we can move ahead and prepare our applications and still continue to develop some of the questions that have been asked by the Commission and Staff members and respond to some of the things.

Now, for instance, I haven't seen until today PG&E's response to some of our comments.

MR. WILLOUGHBY: I think Fresno has misconstrued my concern. My concern was not in a delay for whatever period of time. But my concern was kind of a due process concern, namely that whatever input that the irrigation districts make, that PG&E and Edison and the others have an opportunity to evaluate that --

MR. MOUNT: No problem.

MR. WILLOUGHBY: -- and have maybe another conference like this where the Committee is involved and --

MR. MOUNT: So we're in agreement.

MR. WILLOUGHBY: -- we can discuss our differences.

If there are going to be differences, then I think due process requires that there be some kind of forum where we discuss our differences. And at the end of the day the Committee will have to make a decision.

HEARING OFFICER FAY: And obviously this could go on indefinitely. And we also --

MR. MOUNT: And I don't think I'm suggesting that.

HEARING OFFICER FAY: And we also heard from the parties early in the process that they were very concerned that the Commission make a decision in a timely manner so that you could get on with the business of actually implementing this.

MR. KIMBALL: Absolutely. And the decision we were talking about was the allocation of the megawatts, not the termination of the measurement -- although that's an issue that needs to be decided.

You know, there are several issues that are key in a timeline in order to get this process underway --

HEARING OFFICER FAY: Correct.

MR. MOUNT: -- and to get the irrigation districts out there constructing pole lines.

HEARING OFFICER FAY: Obviously this process has a couple phases, and the first one is getting out an application, which by definition is going to make a certain judgment on some of these --

MR. MOUNT: That's correct.

HEARING OFFICER FAY: -- things.

And the next one is once the applications come in, what the Committee decides to do in terms of the allocation.

COMMISSIONER ROHY: I'd like to take a five-minute break with counsel here, but I will take a comment from the gentleman in the back of the room.

MR. TRUDEAU: Jim Trudeau, Power Providers again.

Being, I think, one of the few hardware guys here, we actually build

these systems for people, an issue I think might need some clarification, and I'm not sure all the customers in the room per se realize it may need clarification.

In the Staff's document they sent out, they sent an item here, they want, "Detailed plans that show the load it serves or will serve for which it intends to utilize the allocation within the timeframe requested."

As an engineering kind of guy I'm wondering, "Gee, is the Staff looking a nice, clear one-line on, you know, get out your Triple A map and highlight, and this is where we're going to go"? Are they looking for, you know, "Here's your 18 disks of Autocad drawings, and we want," you know, that can make a big-dollar difference to the districts in terms of what it's going to cost them to submit, on a gamble, going after an allocation. That may be an issue that the Staff or you gentlemen and ladies might want to clarify for these people.

COMMISSIONER ROHY: Let me comment from my point of view and then I'd like to Staff to comment out it.

Number one, we don't have an Autocad license that I'm aware of, so please don't send the disks in.

But to the extent that you've had clarity and specificity to proposals, those proposals will have obviously a greater chance of being ranked higher because of their specificity and clarity which shows that the parties understand customers, understand transmission systems, distribution systems.

I for one would not like to see the final drawings lying on my desk. But may I refer to Ms. Kelly.

MS. KELLY: No, I agree. It isn't -- we don't need to have that type of detail. But we need to have enough information. You know, I would think, be mistaken to just provide some general concepts that you are considering for serving customers, maybe not a specific engineering plan with all the details, but some level of specificity -- I can't even talk any more today -- specificity, yes, is really necessary.

So while I agree with Commissioner Rohy, it doesn't have to be very detailed. We don't -- piles of maps -- to go the other way and to be too general and to not show that there has been very concrete thoughts and plans looked at by the district would be a mistake as well.

MR. TRUDEAU: Very good. Thank you.

COMMISSIONER ROHY: I would like to have a break. I think we can come back at four o'clock, 10 minutes from now and allow me and the other representatives here to meet with counsel with regard to that question.

So we will take a 10-minute break.

[Brief recess taken from 3:50 to 4:00 p.m.]

COMMISSIONER ROHY: As we were looking in, I wondered how long this would last today, and I would hope that it's not over 10 minutes.

Mr. Fay will address the question that was put before the Committee.

HEARING OFFICER FAY: The Committee was interested in responding to some of the requests made. And so what they instructed me to do was give the parties until the close of business this Friday, December 13th, to submit comments in the form of rebuttal only on things that came up today.

This is not an opportunity to restate your case in chief or to present new material. It's strictly rebuttal so that parties that felt they were surprised by recent submittals or whatever, or things said today, can rebut those.

And all parties regardless of whether they're IOUs or irrigation districts, will submit by the same time, the COB on December 13th.

And the Committee will have the application, the final application out before the end of the year. So there will be a full month to prepare that.

Are there any questions about that?

MR. TANTON: Gary will have someone inform the other parties who are not present here today of the rebuttal deadline.

HEARING OFFICER FAY: Do we know who that is?

COMMISSIONER ROHY: Linda, could you get out a fax to the other parties, a departmental list? You've been the one chief contact with all the people.

HEARING OFFICER FAY: Any questions on that?

I see no indication of any questions.

So we thank you all for coming today, and we are adjourned.

[Conference adjourned at 4:06 P.m.]

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CERTIFICATE OF REPORTER

I, **GEORGE PALMER**, a duly commissioned Reporter of **CourtScribes**, do hereby declare and certify under penalty of perjury that I have recorded the foregoing conference which was held and taken at the **CALIFORNIA ENERGY COMMISSION COMMITTEE CONFERENCE regarding the Application for Irrigation District Exemption Allocation (Chapter 854, Statutes of 1996 AB 1890): Irrigation Districts**, in Sacramento, California on the **9th day of December 1996**.

I also declare and certify under penalty of perjury that I have caused the aforementioned conference to be transcribed, and that the foregoing pages constitute a true and accurate transcription of the aforementioned conference.

I further certify that I am not of counsel or attorney for any of the parties to said conference, nor in any way interested in the outcome of said conference.

Dated this **12th day of December 1996** at Foresthill, California.

GEORGE PALMER
REPORTER